

**Study on Institution of
Local Self Governance
and its Linkages with
Tourism**



**EQUITABLE TOURISM OPTIONS
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Equitable Tourism Options

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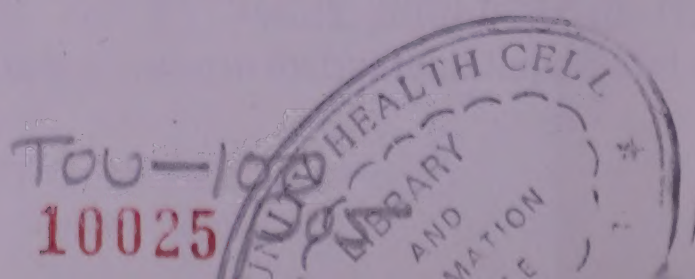
In, 1985, EQUATIONS was founded in response to an urge to understand the impact of development particularly in the context of liberalized trade regimes, the opening up of the national economy, the beginning of the reforms and concomitant structural adjustment programmes.

Campaigning and advocacy on tourism and development issues in India and the developing world, in recent years our work has focused on women and tourism, child and tourism, ecosystems and communities and tourism and globalisation.

We envision tourism that is non-exploitative, where decision making is democratized and access to and benefits of tourism are equitably distributed. We endorse justice, equity, people centered and movement centered activism, democratization and dialogues as our core values.

To know more about EQUATIONS, write to info@equitabletourism.org. All comments can be provided to info@equitabletourism.org.

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Background and Context:

The passing of 73rd and 74th Amendment to Indian Constitution, is considered as landmark in the history of participatory democracy, which came into effect on April 24th 1993. A structural shift has been taking place from mere representative democracy to participatory democracy and thus good governance precepts has been put in to operational space. The panchayats previously were a mere suggestion in the Directive Principles of State Policy whereas the 73rd and 74th Amendment resulted in the Panchayati Raj Institutions (PRIs) and Urban Local Bodies (ULBs) such as municipalities and municipal corporation being conferred constitutional sanction. This means that all activities of PRIs and ULBs as stipulated by the Act have now legal and constitutional status and any violation of this by anybody and at any time will be punishable by law. The reasons behind this amendment is that in many states, institutions of local governance have become weak and ineffective on account of a variety of reasons, including the failure to hold regular elections, prolonged suppressions and inadequate devolution of powers and functions.

Tourism is considered as growth engine for economic development and social development. However reality is different and tourism industry is perhaps the best example of the sectors, in which needs and aspirations of the local communities have been marginalized, including that of local bodies. A closer look to the resources required by the tourism industry reveals the fact that tourism industry uses the resources, which fall under jurisdiction of institutions of local self-governance. Hence, it becomes obligatory for the industry to take the permission and consent of the local institutions, prior to making the use of local resources. However the last twelve years of experience reflects that these institutions are not able to perform the roles and responsibilities as per their constitutional mandate. At times lack of political will of state and central government are responsible for non-performance of these institutions, while at operational level diverse political agenda of these bodies, creation of parallel institutions, lack of support from the line departments and ambiguity of powers and

functions across various levels of local governance put constraints in functioning of these local institutions.

In the light of 73rd and 74th Constitutional Amendments and tourism developments it is imperative to draw a correlation between the Constitutional Provisions and development of tourism industry and the present paper attempts towards the similar analysis.

The paper is divided into three sections:

The first section looks into the importance of tourism industry and its contribution to the world economy and Indian economy. The section also looks into the various five-year plans in India and its effort in boosting tourism.

The **Second Section** looks into the history of panchayati raj in our country. It looks into the 73rd and 74th Amendment Acts and the rights given to the Panchayats and Municipalities under the Schedule IX and Schedule IXA. It also deals with the Bhuria Committee recommendation for self-rule to the tribal population on the basis of which certain provisions under the 73rd Amendment Acts were extended to the Scheduled Areas.

The **Third Section**, tries to analyze, how in spite of the constitutional powers granted to the panchayats, the present tourism policy and the international trade agreements, namely GATS negates the panchayats powers and are not favorable to the local communities.

SECTION I

Role of Tourism in Economic Development

Tourism being heterogeneous, it is seen to have many direct and indirect benefits for the wider sector of the economy. Employment is generated not only in the wide range of service sectors directly linked to tourism but also in retail, construction, manufacturing, and telecommunications. High percentage of women and young people are employed by the small and medium sized enterprises that comprise much of the industry. Technological advances are making travel easier than ever before and increasing numbers of people are traveling annually to consume ever more varied tourism 'products' in ever more far-flung destinations.

Tourism has been one of the fastest growing economic sectors since the 1960s. In recent decades, the share of international tourism in global economic activity has risen steadily. It is one of the top five export categories for 83 per cent of countries in the world. The Tourism Satellite Account (TSA), a strategic project for the World Tourism Organisation has analysed that world over, travel and tourism economy has generated 10.4% of the GDP, 8.1% of employment and 12.2% of the exports in the year 2004. In South Asian countries, travel and tourism economy directly and indirectly accounts for 5% of the GDP and 5.2% of the total employment. Forecasts indicate that the number of people traveling internationally is likely to increase from 457 million in 1990 to about 1,504 million by 2020, and that earnings from international tourism is likely to rise from \$476 billion (year 2000) to more than \$2 trillion by 2020. In world over, the projected growth rate per annum (from 2005- 2014) is 4.5%, while South Asia will experience growth rate of 8.3% per annum in the same period. The projected growth rates reflect that in South Asia the tourism will grow twice to the growth in other parts of world.

The Indian Scenario

In keeping with the general trend the world over in economic development, the contribution of the services sector (like information technology, transportation, tourism, financial services etc) to India's Gross National Product (GNP), exceeds the contribution made by the agriculture or the manufacturing industry sectors. It has been estimated that India's travel and tourism economy directly or indirectly accounts for 4.9% of the country's GDP (The 2004 Travel and Tourism Economic Research, WTTC). According to a study conducted by the Centre for Monitoring Indian Economy (CMIE), the number of tourists arriving in India has gone up from 20,26,743 lakhs in April- Jan, 1999-2000 to 21, 52,848 lakhs in the corresponding period of 2000-2001. From 2002 onwards, there has been exponential increase in foreign tourist arrivals and from 23.84 lakhs in 2002 it increased to 33.67 lakhs in 2004. There is 43% increase in foreign tourist arrivals, compared to 2002 arrivals.

The exponential growth of foreign tourist arrivals in 2002-2004, also corresponds to the foreign exchange earnings. In 2003-04, there has been 48% increase in foreign exchange earnings from 2001-02 (Ministry of Tourism, Government of India). The higher earnings are a result of increase in arrivals combined with high per capita spending of tourist in general. Tourism is emerging as one of India's largest export industries in India offering numerous opportunities.. For entrepreneurs large and small, and those looking for employment, tourism is a relatively easy industry to enter.

Indian approach to tourism development

The first conscious and organized efforts to promote tourism in India was made in the year 1945, when a committee was set up by the Government of India under the chairmanship of Sir John Sargent. The main objective of the committee was to encourage and develop tourist traffic both internal and external by all possible means.. Since, Independence, India has made sincere effort to boost tourism as

seen in its various Five-Year plans.. During first five year plan period (1951-1956), ministry of transport looked after the subject of Tourism. The second five-year plan of 1957-62 earmarked funds exclusively for the development of tourism in both centre and state sector.

In the fourth Plan (1967-72), under the new arrangement the Central Department of tourism took over planning and development of facilities suitable for overseas tourists, thus enabling it to expand its tourist promotion overseas by making available adequate quantity of better quality and variety of literature in a number of foreign languages. During the fifth plan (1972-1977) the main objective strategy was to promote 'destinational tourists traffic' that is, those who come primarily to holiday in India and not on transit through India. The fifth Plan also laid down criteria for selecting centers for tourism development. The criteria were a) tourism preferences to be determined by the existing patterns of travel within the country. b) The actual or potential attraction of a place for tourism because of its historical or archaeological significance or scenic beauty. c) Its accessibility d) its development in relation to the existing or future travel patterns of tourists to within the country. e) Its relation to the overall promotional strategy and the developed programme of the Department. f) The investment that the State Government concerned would make at the place for developing the infrastructure such as roads, water and electricity supply, transport facilities, etc.

The 6th Plan (1977-82) saw the emergence of first tourism policy and for the first time, Planning Commission recognized the importance of both domestic and international tourism, and its capacity in generating social and economic benefits like promotion of national integration and international understanding, creation of employment opportunities, removal of regional imbalances, increasing foreign exchange earnings, thus redressing the balance of payments situation, etc.

The 7th Plan (1985-1990) gave tourism an industry status (exception being Goa which is yet to consider it as an industry), which implied that such business activities would in future be entitled to the same

incentives and concessions as were applicable to an export industry. In the Eighth Plan, thrust was on involving private sector by providing better incentives and equity support towards the project costs. Another scheme for strengthening tourism infrastructure was the special tourism areas (STA) scheme, under which the participation of central, state governments and private sector was envisaged. During this period Government announced a number of measures in the areas of industrial policy, financial sector reforms and overall macro-economic management. The initiative taken by the government allowed direct foreign investment up to 51% in high priority industries, and hotels and tourism and related industries.. Above measures were the ingredients of the National Action Plan 1992 to practically implement those various concerns tuned towards globalization. The Ninth Five Year Plan (1997-2002) realized that number of middle and lower middle class tourists visiting distant places in the country is on the increase.

The approach to tourism development in the Ninth Plan was on coordinated efforts by the public and private sector .The major thrust areas in the Ninth Plan were: a) Indigenous and Natural Health Tourism b) Rural and Village Tourism c) Pilgrim Tourism d) Adventure Tourism e) Heritage Tourism f) Youth and Senior Citizens Packagers. The Ninth Plan also suggested giving " export house" status to tourism sector. Special emphasis was laid on tourism promotion in North East India, inter sectoral coordination and human resource development for tourism.

The Tenth Five-Year Plan (2002-07)) recognized the factors responsible for the inadequate growth of tourism sector in India which are low levels of investments lack of priority given to the development of sector and lack of interest on the part of state governments One of the key objectives of the Tenth Plan is to facilitate the implementation of Tourism Policy 2002. The Plan has suggested five key strategies to achieve vision of tourism policy, these are: positioning tourism as a national priority, enhancing India's competitiveness as tourism destination, improving and expanding product development, creation

of world class infrastructure, and effective marketing plans and programmes. Some of the thrust areas of tenth Plan are : cultural and heritage tourism, beach and coastal tourism, promotion of Indian cuisine, village tourism, adventure tourism, fairs and festivals, development of shopping centers and promoting to aurvedic centers.

An Overview to Tourism Policies and Plans

In the last two decades, tourism sector in India has witnessed policy and plan formulations for the development of tourism sector. The first National Tourism Policy was formulated in the year 1982. The general tone of the policy was to project India as a world-class tourist destination, with the objectives of developing tourism in India on original lines while using it to preserve the heritage and strengthen our values and culture and bringing its socio-economic benefits to the community by generating higher levels of employment, income, foreign exchange, and revenue for states and by improving habitats. The national tourism policy of 1982 can only be seen as an aggressive marketing strategy adopted by the government to place India favourably on the global tourism map. It cannot be seen as a comprehensive development programme as it fails to address vital social and cultural issues that the bogie of tourism brings along with it.

The National Committee on Tourism was set up in 1986 to evolve a perspective plan for tourism development in the country and submitted its report in 1988. It elaborated upon most aspects of tourism and other related issues including Civil Aviation, Organizational Structure, Human Resource Development, etc. It emphasized the need for India to improve its share in the global tourist traffic and thereby attract more foreign exchange into the economy. The report clearly stresses upon the fact that if tourism continued to grow in such a haphazard manner it would certainly cause irreversible environmental damage. To remedy the situation it suggested that an assessment be made of the carrying capacity of each region including the anticipated environmental impacts that a

tourism project may have.

The national plan for tourism was evolved in the year 1992. The 1992 action plan was the central government's attempt to place tourism within the overall liberalized and privatized framework that the New Economic Policy prescribed for the country. It elaborated upon the need to encourage private entrepreneurship, identify locations for concentrated development of tourism, restructuring institutions for manpower development and undertaking massive marketing campaigns.

The policy adopts a four pronged development strategy for tourism development - of improving infrastructure, developing areas on a selective basis for integrated development, restructuring and strengthening the institutional framework and evolving a policy to increase foreign tourist arrivals and foreign exchange. The plan also identified 15 circuits and destinations for intensive development. Although the National Committee on Tourism was set up with the objective of providing a holistic view on how tourism ought to develop in the country, most of its recommendations have not been incorporated in the national action plan. In particular its recommendation requiring an assessment of the carrying capacity of regions and submission of impact assessment reports have been completely ignored.

The National Tourism Policy 2002 is considered the result of long deliberations and discussions among all groups related to tourism. The Government, through the National Tourism Policy (NTP), has tried to place the Tourism Industry within the liberalized and privatized framework that the Indian Economy has adopted today. With the New Industrial Policy in the background, the NTP has emphasized that it is the private sector and foreign Investment which will alone provide the impetus for pushing the tourism sector, and thereby the economy ahead. The policy document also seeks to enhance employment potential within the sector as well as to foster economic integration. The policy has also made definite improvements over the previous ones as the principle of sustainable

development has been highlighted.

Increasing India's share in world tourism, to develop tourism as an enterprise that is government led private sector driven and community welfare oriented, to develop effective linkages and close coordination among various departments, and developing ecotourism more than just nature tourism are prime concerns of the NTP 2002. The NTP also recognized the importance to formulating a Code of Ethics to guide tourism development.

The 2002 policy realizes that the tourism industry functions in a highly complex fashion and to run it smoothly would require high levels of coordination among all the involved sectors. The NTP proposes the inclusion of tourism in the Concurrent list of the Constitution in order to allow both the central and state governments to play an effective and coordinated role in tourism development. The efforts of the NTP at realizing sustainability as an important objective are commendable. However the policy does not go far beyond stating it as an objective and therefore in terms of actual policy measures, leaves much to be desired. There has been significant debate and discussion over the move to place tourism in the Concurrent list. Although most states have given their consent, there are few others who have voiced their disapproval on various grounds. While Kerala has objected to the proposal on the grounds that it will take away the state government's right to legislate on a large number of subjects in the state list, Madhya Pradesh has cited its reason as the likelihood of losing rights to legislate on taxation, hospitality and tourism industry issues. On a more generalized note, state governments that have objected to the proposition have done so in apprehension that if tourism is placed in the Concurrent list, majority of the legislative powers will be vested with the central government, leaving very little for state initiative. The tourism industry has however taken a different stance insisting that concerned state governments must give their approval immediately. The policy seeks to 'position tourism as a major engine of economic growth'. The focus only on the economic side of tourism is disheartening. Along with its visible economic impacts, tourism has significant social, cultural and environmental impacts,

which need to be given as much, if not more attention..

The policy has stressed the vital role that foreign investment will have to play to promote tourism in the country. Having said this, it should duly acknowledge the specific clauses of the GATS agreement that require the developed countries to extend benefits to the developing countries with respect to information and service technology.

One of the key areas of focus of the NTP has outlined is 'Suraksha' - to ensure the safety and security of tourists by establishing special trained police. The policy makers are however oblivious to the fact that in more cases than one it is the safety of the local people that is jeopardized through tourism. It is high time the NTP took note of issues like prostitution, child abuse and child trafficking that have grown in the shadow of tourism and took steps to check them

Five-Year Plans	Total Outlay
1951-56	0
1957-62	Rs. 336.38 lakhs
1962-67	Rs. 800 lakhs
1967-72	Rs. 25 Crores
1972-77	Rs. 23.62 Crores
1980-85	Rs. 187 Crores
1985-90	Rs. 210 Crores
1992-97	Rs. 990 Crores
1997-2002	Rs. 1000 Crores
2002-2007	Rs. 2900 Crores

Thus a look at the above table shows that importance of tourism planning in India has increased. This could be traced from the budgetary allocations, which increased from Rs 336.38 lakhs to Rs.1000 crores in the current year. Thus one cannot ignore this sector as it has direct and indirect benefits in advancing the overall economic development, improving the standard of living and creating employment.

Apart from the allocations of the five-year plans, the expenditure of the Tourism Ministry of the Government of India over the years also shows a similar trend.

EXPENDITURES ON INFRASTRUCTURE

(Rs in Crores)

Year	Tourism	Civil aviation	Information	Transport, shipping & water sources
1990-91	74.84	76.64	501.17	1910.64
1994-95	108.96	136.70	484.51	2238.84
1995-96	119.14	145.05	576.95	2287.85
1996-97	106.44	86.71	604.19	3187.43
1997-98	117.75	136.64	908.51	3783.61
1998-99	132.62	199.92	1051.99	4453.30
1999-00	132.34	195.76	1182.89	6306.66
2000-01	54.44	238.82	1354.78	8416.28
2001-02	181.19	277.93	1472.00	8376.80

Tourism and global regimes

Mid 80s saw the growing importance of services sector in the world trade. With the completion of the Uruguay Round of trade negotiations and the formation of the World Trade Organisation (WTO), the rules of multilateral trading process (which so far pertained only to the trade in goods) were extended to trade in services through the General Agreement on Trade in Services (GATS), which brought all services, including tourism within the WTO net. India became a signatory to the multi-lateral agreement along with the other 148 countries in the WTO, as it did not want to be left behind in the ongoing liberalization process. In implementing the Agreement, India has already started, opening its markets to foreign multi-nationals in various service sectors like computer services, tourism and transport sectors.

Within the GATS, tourism has been classified as the 'Tourism and Travel-Related Services', which includes hotels, restaurants, travel agents, and tour guide services. Under GATS rules, the trade in any service sector is defined through four modes of supply, which covers a range of possibilities regarding tourism. These include:

- a) Cross-border supply of the service (i.e. booking tickets through the internet,)
- b) Consumption Abroad (i.e. the movement of the service consumer i.e. the tourist from the generating to the host country).
- c) Commercial presence (i.e a multilateral corporation setting a hotel/restaurant/travel agency in the territory of another country).
- d) Cross- border movement of personnel/labour (e.g. movement of foreign managers/guides/tourism professionals from the generating to host country.)

Another integral part of GATS schedules, is the removal of limitations on tourism service providers, regarding establishment, ownership, employment of personnel and remittances'. In other words foreign companies will have free market access to domestic markets under the same trading conditions, which exist for local companies of the host country (i.e. the principle of National treatment).

It is important to note that, keeping the priorities and sensitivities of developing countries in mind, a section of the GATS addresss the need to secure 'the increasing participation of developing countries in world trade'. Accordingly, Member governments have been advised to achieve this through the negotiation of 'specific market opening commitments' in the following areas, namely: a) Strengthening the domestic services capabilities of developing countries through access to technology resources of the developed country on a commercial basis; b) improving access of developing countries to distribution channels and information networks; c) freedom for developing countries to deploy key and regular personnel in places where they are supplying tourism services.

GATS KEY CONCEPTS

- **Most Favoured Nation (MFN) Treatment (Article II)** - Each member shall accord services and service suppliers of any other Member treatment no less favourable than that it accords to like services and service suppliers of any other country. That is, a government must not discriminate between services or services suppliers of other members

- **Market Access (Article XVI)** - GATS requires members not to put restrictions on the ability of foreign investors to enter the market if they have made bound commitments in the respective sector.
- **National Treatment (Article XVII)** - Under the National Treatment obligation WTO members commit themselves to treat foreign investors 'no less favourably' than domestic investors. This obligation applies to any measure which may have the intended or unintended effect of discriminating against a foreign investor.

The Current Domestic and International Scenario:

At ground level several forms of exploitation in the field of tourism is taking place as a result of the domestic and international policies of the government. For e.g. In the area marked for tourism and development in the Southern states of Tamil Nadu, the Land Acquisition Act is widely used to appropriate land from the poor and marginalized farmers in the name of dubious 'public interest'. Thus land is forcefully taken away and is handed over to hotel chains and other tourism service suppliers at throwaway prices. In Goa shacks and small restaurants, which provided a source of livelihood for the local people of the region, is being taken away by big hotels. Both these instances show that the government carries forward its programme without consulting the people who live in that region. Even at international level, the governments ongoing programme of liberalization especially signing the multi-lateral trade agreement GATS, will have negative impact on the tourism sector. An export-led trade such as tourism does have the potential for economic growth, but how far it will benefit the host nations will depend on where the profits actually go, who controls tourism industry, and what is perceived by those in power as the fundamental indicator of economic growth: either an additional casino hotel for tourists or a clean and efficient water supply for local residents. If those profits, which do remain in the host country, are used to clear huge foreign debts rather than to benefit local populations, then liberalization will bring few, if any, advantages to the vast majority of local communities.

In theory and on paper, free access for the developing countries to the resources of the rich (namely technology like the global reservations system) may seem attractive, but in practice as has happened in the past, rich and the powerful tourist nations will enjoy the full economic hegemony and the poor nations like India will be merely servicing the needs and priorities of the dominant transnational corporations, as has always been the case. Another reason for this is that the nations with well-developed tourism sectors, enjoy greater lobbying power with International institutions like the World Bank and WTO.

Conclusion

Tourism in the present scenario is gaining high priority in the development of the country. Both national and international agencies and systems are involved in it. At the same time, the most affected section is the local community who are not consulted and are not a part of this development. The entire decision making process from the formulation of the structure, functions and the utilization of human resources, to the financial administration of tourism development is determined by the political parties at the centre, bureaucracy and the private sector rather than by the local communities

Explorations need to be conducted on the possibilities of peoples' interventions and through systems on which the people express their voice. One such possibility would be to look into the Panchayati Raj systems in the country. What roles can panchayats play to operate tourism in a just and equitable way? Whether panchayats can get into the planning process or whether they can regulate tourism?

In this context, the next section of this paper will look into the power and functions of the Panchayat System, with special emphasis on 73rd and 74th Amendments. The paper will also try to see whether there are lacunae in the system and whether given guidelines are capable of addressing the new economic challenges and therefore, the political challenges

SECTION II:

Evolution of Local Self Governing Institutions in Country

It is widely recognized that self governing village communities characterized by agrarian economies had existed in India from the earliest times. Not only are they mentioned in Rig Veda , which dates from approximately 1200 B.C., there is also definite evidence available of the existence of village sabhas (councils or assemblies) and gramins (senior persons of the village) until about 600 BC.

Prior to the colonial period, these village bodies took the form of Panchayats, (an assembly of five persons) which looked after the affairs of the village. Besides Village Panchayats there were also caste panchayats to ensure the persons belonging to a particular caste adhered to its code of social conduct and ethics. If this was the general pattern in indo Gangetic plains, in the Southern India, village panchayats generally had a village assembly whose executive body consisted of representatives of various groups and castes.

During the British rule, the major unit of local government was the district. A single district officer, referred to as the collector, who represented the highest status of Indian Civil Service was made responsible for maintaining peace, collecting revenue, and administration of justice.. In 1882, attempts were made by **Lord Ripon** to involve local people in the rural areas with the administrative processes, through creation of nominated District Boards.

In the post independence period it was Mahatma Gandhi who wished to give the PRIs a democratic basis of their own by investing them with such powers so that the villages could have a real sense of "Swaraj". According to him "greater the power of the Panchayat, the better for the people" as true democracy "has to be worked from below by the people of every village". His vision resulted in the introduction of **Article 40 in the constitution of India (under the Directive Principles of State Policy)**, which states that "*the state shall take steps to organize village Panchayats and enc'ow them with*

such powers and authority as may be necessary to function as units of self-government". This constitutional directive tended to inspire the Union Government and State Governments, to adopt measures for development of the panchayats in the country.

During the 1950s several states made legislations to democratize the structure and devolve more powers and functions to the panchayats. The Five-year plans included in their programme measures to strengthen local self-government to play a role in local development processes and to make them more responsive to people's needs and expectations. In spite of efforts taken by the planning process, formation of panchayats and devolving appropriate powers and functions to them were left to the respective state governments. Some states like West Bengal, Madhya Pradesh, and Kerala put appropriate measures to strengthen the local bodies, while many states did not show their willingness for decentralization process.

Various committees were also set up by the Union Government to make suggestions and recommendations on revitalizing the Panchayat Raj Institutions. One such committee was **Ashoka Mehta Committee** whose main recommendations were for more genuine and effective devolution of powers to the Panchayats. The most significant recommendation of the committee was for the **creation of a two-tiered system of Panchayati raj namely, Zilla Parishad and Mandal Panchayat** (which is a cluster of villages and is smaller than the present block panchayats). The committee felt that the Zilla Parishad and not the Panchayat Samiti should be made the primary unit in the Panchayati Raj system as the Zilla Parishad enjoys greater resources and leadership to play a substantial development role.

For an effective coordination between development and urban development the committee suggested that the Municipal bodies should be given more representation in Zilla Parishad and Mandal Panchayat. As regards taxation, the committee recommended the Panchayati Raj Institutions to have compulsory powers of taxation to mobilize the necessary resources on their own thereby reducing their dependence on devolution of funds from the State Government. A

remarkable feature of the Mehta Report is its recommendation favouring 'open participation' of political parties in Panchayati raj affairs. Due to change in the government, the recommendations of the committee were not accepted. However some states like West Bengal, remodeled its Panchayat Raj system on the recommendations of Ashoka Mehta committee report.

Another committee appointed by the Government was the **G. V. Rao Committee** in 1985. The committee's main thrust was on **improving the representative character and strengthening the capability of both the people's representative and the administrative personnel in the Panchayati Raj** institutions so as to equip them to play a major role in promoting and managing rural development and local affairs.

The other committee appointed in 1986 under the noted jurist, **L. M. Singhvi** advocated giving **constitutional status** to the Panchayats to strengthen their position. **The P. K. Thungon Committee** like the previous committee recommended for the constitutional recognition of panchayati raj in 1988. It recommended that the Zilla Parishad be made the pivotal body to carry out planning and development activity in the district. The most notable recommendation of the Thungon committee was about *district collector being made the chief executive officer of the Zilla Parishad and the state government to appoint officers of the rank of additional collectors to assist the collector in development and regulatory administration*. Its other recommendations were about a detailed list of subjects for panchayati raj to be incorporated in the constitution and setting up of the state finance commissions to lay down the criteria and guidelines for devolution of financial resources to the PRIs.

It was in this backdrop that on 15 May 1989 the Constitution **64th Amendment bill** was drafted and introduced in the parliament. There were two serious oppositions to the bill : due to its political overtones a) the bill overlooked the states and was seen as an instrument of the centre to deal directly with the PRIs and b) that it was imposing a uniform pattern throughout the country instead of

permitting individual states to legislate the details, keeping in mind the local circumstances.

In September 1991, the Congress government under Narasimha Rao introduced the 72nd (Panchayats) and 73rd (Municipalities) constitutional bills. The Lok Sabha passed the bills on 22 December 1992 after which the Rajya Sabha passed the two bills, their sequence changed to 73rd and 74th respectively. Following the ratification by both the houses the President gave his assent on 20 April 1993. This culminated in the passing of the Constitution 73rd and 74th Amendment Acts in 1992, which inserted Part IX and IXA in the Constitution. While Part IX relates to "Panchayats", Part IXA relates to "Municipalities". The provisions in Part IX and IX A are more or less parallel and analogous in nature.

Since 1993, institutions of local self governance , both rural and are enshrined in the Constitution of India like the two upper levels of Government, namely the centre and the states. Thus making India the fifth country to enshrine the local government in the constitution after Germany, Japan, Brazil, and Nigeria.

73rd Amendment Act: Salient Features

Many State governments attempted to translate this Directive Principle into practice by enacting necessary legislation and creating Panchayati Raj Institutions (PRIs) but with limited success; such efforts were confined to selected States. Against this background the need for providing a firm Constitutional status for PRIs became necessary. And after a great deal of efforts the 73rd and 74th Amendments to the Constitution have been passed which provide Constitutional status to the PRIs and Urban Local Bodies (ULBs). As per the 73rd Amendment, the PRIs are the local level institutions comprising of elected representatives entrusted with the responsibility of identifying, formulating, implementing and monitoring the local level developmental and welfare programmes.

3 apex body in the panchayati raj system of local government in India. It is a body at the district level in all states except Assam and Tamil Nadu. Lately states like Haryana, Madhya Pradesh, Karnataka and Orissa have abolished Zilla Parishad thereby converting the three tiered panchayati raj into a two layered one.

It is the intermediate tier in the panchayati raj system of rural local government in India. The Panchayat Samiti's term is generally co-terminous with that of a Panchayat.

73rd Constitutional Amendment : Some definitions

"District" a portion of territory, region or locality notified under the statutes of the state.

"Gram Sabha" means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level.

"Intermediate level" means a level between the village and district levels specified by the Governor of a State by public notification to be the intermediate level for the purposes of this Part;

"Panchayat" means an institution of self-government for the rural areas.

"Panchayat area" means the territorial area of a Panchayat;

"Population" means the population as ascertained at the last preceding census of which the relevant figures have been published;

"Village" means a village specified by the Governor by public notification to be a village for the purposes of this Part and includes a group of villages so specified.

This means that all activities of PRIs as stipulated by the Act have now legal and constitutional status and any violation of this by anybody and at any time, would be punishable by law. Constitutional status vide Article 243 of Part IX of the Constitution which came into effect from April 24, 1993 made it mandatory for all States to promulgate their own new acts consequent to the 73rd Constitutional Amendment Act or amend their old ones by April 1994.

By virtue of the Constitutional Status bestowed upon the PRIs, it now has the potential to revolutionize the way we have been seeing local self-governance. It is not only a system of participative self governance but it ensures political empowerment to the poor, marginalized, and the oppressed, which traditionally in our country have been the Scheduled Castes, the Scheduled Tribes, and the women.

- 1) **Constitutional Status to peoples' participation:** The Act incorporated the concept of Gram Sabha (the assembly of all adults in the village/s). It was to comprise of all persons registered as voters in the Panchayat area at the village level. The state legislature was to statutorily entrust the Gram Sabha with powers of general supervision over the elected gram

Panchayat and authorize it to approve the annual plan for the village and income-expenditure statement of the village panchayat. The 'Gram Sabha', consisting of all eligible voters, has been made the soul of the Panchayat institutions to discuss and decide their own problems, and to further people's participation in various development programmes in a democratic way. This will foster maximum accountability and transparency of administration and public awareness.

2. **Uniform institutional structure** : Keeping in view the provisions of 73rd Constitutional Amendment Act, State panchayat Raj acts have been constituted which incorporate a three-tier system of Panchayat Raj, consisting of Zilla Panchayats at the District level, Panchayat Samitis or Kshetra Panchayats at the intermediate level & Gram Panchayats at the village level. However, the Panchayat at the intermediate level can be constituted in a state having a population not exceeding 20 lakhs.
3. **Direct Election** : The Act provides for direct elections of all the members in the Panchayats at all levels; whereas indirect elections of the chairperson at the intermediate and district levels. The mode of elections of chairpersons at the village level has been left to the state government to decide. Thus will boost local people's initiative and enhance their involvement in the system, through the electoral process.
- 4) **Representation for Women and socially marginalised communities in governance** : The legislature provides for the reservation of seat in every Panchayat for the SC/ ST's in proportion to their population at each level. Likewise, seats have been reserved for women. Not less than one-third of the total number of seats to be filled by direct election are reserved for women and these seats are to be allotted by rotation to different constituencies in a Panchayat. In respect of backward classes an enabling provision has been made in the Act. Posts of chairpersons in panchayati raj institutions at all levels have been reserved for the scheduled caste and Scheduled Tribes in

proportion to their percentage in the total population of the area. Similarly, not less than one-third of the offices of chairman are to be reserved for women. These too are to be on rotation basis.

Opportunity for the emergence of a new leadership: Allowing persons who have attained the age of 21 years to be eligible for contesting elections in Panchayat bodies will provide opportunities for the younger generation to participate actively in the development process and share power

- 5) **Regular Elections:** The Act provides for a normal term of five-Years for a Panchayat. The act also lays down that a Panchayat cannot be dissolved before its normal term by resorting to amendment of any law in force. In case of any dissolution, a new panchayat is to be re-constituted before the expiry of the five Years term or within six months from the date of dissolution.
- 6) **Provisions of a State Election Commission and bar to interference of courts in electoral matters :** The Act provides for conduct of elections under the overall supervision of the State Election Commission consisting of a State Election Commissioner to be appointed by the governor. The State Election Commissioner is responsible for the superintendence, direction and control of election to the panchayats including preparation of electoral rolls. To ensure the independence of the commission, the State Election Commissioner can be removed only in the same manner and on the same ground as a judge of a High Court. The state legislatures have the power to make provisions with respect to all other matters relating to or in connection with, elections to the Panchayats.
- 7) **Powers and Functions:** The Panchayats have been empowered with such powers and authorities as are necessary to enable them to function as institutions of self-governance. Under the Act the states legislature has the legislative powers to confer in the Panchayat such powers and authority so as to enable them to prepare plans and implement schemes for economic development and social justice on various subjects including those mentioned

in the Schedule XI. The decision-making powers of panchayati raj bodies are extensive and contain 29 items all concerning their day-to-day lives. The functions conferred on the panchayati raj institutions are the following:

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small-scale industries, including food-processing industries.
9. Khadi, village and cottage industries.
10. Rural housing
11. Drinking water
12. Fuel and fodder
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries
21. Cultural activities.
22. Market and fairs.
23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.
25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular, of the schedule Castes and Schedule Tribes.
28. Public distribution system.
29. Maintenance of community assets.

8) As far as the financial powers enjoyed by the Panchayats are concerned, the state legislature has been given the power to:

1. authorize the panchayats to levy, collect and appropriate suitable local taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;
 2. assign to a panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits,
 3. provide for making such grants-in-aid to the panchayats from the Consolidated Fund of the State; and
 4. provide for constitution of such Funds for crediting all moneys received respectively by or on behalf of the panchayats and also for the withdrawal of such money therefrom, as may be specified in the law.
- 9) With regards to the financial powers, the Governor of the state is entrusted with the power to constitute a Finance Commission to review periodically the financial position of the panchayats and make recommendations regarding the distribution of net proceeds of duties, taxes, tolls, fees etc. between the states and the panchayats and between the panchayats at different level and assignment and appropriation of the taxes, duties, tolls, fees, etc., what taxes, duties, tolls and fees may be assigned to the Panchayats, grants-in-aid to the panchayats from the consolidated fund of the state.
- 10) The state legislatures may by law make provisions with respect to the maintenance of accounts and the auditing of such accounts.

Ground Realities

Except for three North Eastern states (having tribal councils) and two urban Union Territories (UTs), all the states/ UTs coming under purview of this Act have amended their respective panchayat Acts in conformity with the Central Act. Followed by amendments in Constitution and State Acts, the decentralized institutions have come into being. Even after 13 years of enactment of 73rd Amendment Act, the reality of decentralized institutions of self governance remain critical. Some of the key concerns are as:

- Though the provision talks about reservation for women it fails to include provision for conducting training programmes and such other programmes to bring them at par with their male counterparts. It is generally seen that women do not have any clear idea about their powers under the Act. They also do not attend meetings. Being illiterate they generally affix their thumb impressions to papers on major decisions taken at the meetings, which they have not attended.
- In spite of a provision for compulsorily conducting of elections to the Panchayats after every five years, in many states elections are due and wherever elections have taken place it was characterized by caste and social cleavages making it very difficult to establish effective local governments. In Garhwal and Kumaon, Panchayat elections were last held in 1988. The next elections should have been held in 1993. In Bihar, elections were last held as long back as in 1978-79. Orissa though not in the same league, followed closely. Here the Government showed surprising dexterity in dissolving the local bodies in August 1995, but failed to exhibit similar promptness in reconstituting them allowing in effect, the bureaucracy to run them. Elections, which were to be held in February 1996, were postponed twice - first in November 1994, on the pretext that ballot boxes were not available and again in May 1996 at the joint request of the political parties.
- The recently held panchayat elections in Bihar after a gap of 23 years were marred by violent clashes between caste groups which goes on to prove that political parties view panchayat election as the equivalent of exit polls and a barometer to measure their popularity. Panchayats elections thus becomes a mini version of the assembly and Lok Sabha polls with political parties exploiting caste affiliations by extending support to individuals. The political parties are to a large extent blamed for postponing panchayat election because for the fear of facing the panchayat electorate. They do not want to conduct panchayat election during the midway or towards the fag end of their term. No party who is aspiring to come to power would like to be dishonored by losing seats at various levels of the panchayats. Therefore the political

parties, both ruling as well as the opposition join hands in postponing election. The State Election Commission also sometimes succumbs to the pressure tactics of the State governments. Therefore if the local government has to be successful, fundamental reforms will have to take place. The state Election Commissioner who is entrusted with the responsibility of conducting Panchayats elections should be constitutionally empowered to take action against those that attempt to politicize local government bodies and state governments that do not conduct elections on time.

- The reference to the Eleventh Schedule in the 73rd Amendment says "the state governments may entrust schemes under subjects, which are listed in the eleventh schedule, to the Panchayats." That is, it doesn't confer any entitlement or rights on the Panchayats over the subjects. But rather, that the Panchayats can be appointed as mediators of various departments of the Centre/state government at the latter's sweet will, to run some scheme which they have devised on their behalf.
- Although the Gram Sabha has become the soul of any decentralization debate since 1995, it has not achieved the status and position it ought to have. Though the gram sabha have the power to identify beneficiaries for various poverty alleviation programmes, propose an annual plan, discuss the budget and audit reports and review progress, in most of the states, their decisions are not binding as it only enjoys an advisory role. Only few states like, Haryana, Punjab, Orissa and Tamil Nadu have given the sabha the power to approve the budget. The success with regard to holding meeting of the gram sabha is mixed. West Bengal had a better record. In 1995, 63 per cent of the statutory meeting was held. In Madhya Pradesh and Rajasthan, field reports showed that many people did not know about the dates of the gram sabha meetings. Moreover, as the meetings are held at panchayat headquarters, people from distant village find it difficult to attend them. Attendance is high when a beneficiary list is to be discussed. Generally losers in the

panchayat elections mobilize support to oppose the development plans in the Sabhas. To revive the gram sabha and to make it an effective instrument of grassroots democracy, effective measures need to be taken like land reforms etc.

- Under the 73rd Amendment, the states legislature has the legislative powers to confer to the Panchayat such powers and authority so as to enable them to prepare plans and implement schemes for economic development and social justice on various subjects mentioned in the Schedule IX. But this can be put in practice only if some kind of professional and technical expertise (from the state and the centre) is accompanied by it. Without such guidance, developmental activities can go in a haphazard manner.

74th Constitutional Amendment Act: Salient Features :

Similar to the provisions under 73rd Amendment, provisions exist in the Constitution Seventy-Fourth Amendment Act, 1993 on "Municipalities" applicable to urban areas. Provision in Schedule IX A are very much similar to provisions in Schedule IX especially with regards to reservation of seats, Finance commission, Election Commission, etc.

Taking in account, the necessary provisions required for strengthening the institutions of urban local self-governance, the 74th Constitutional Amendment has following salient features.

- 1) **Definitions and formation of Urban Local Bodies of various urban areas: (243Q.)** There is provision for " Nagar Panchayat" for an area in transition from a rural area to an urban area. Similarly Municipal councils are for smaller urban area, while Municipal Corporations are for larger urban area. A Nagar Panchayat is mainly a transitional area, an area that is transformed from a rural to an urban area. Such an area is basically rural in character, which over a period of time develop urban characteristics. Such an urban local body would have to

⁵The powers and functions of the Panchayats are described in the eleventh schedule concerning the 29 items which primarily deal with their day today functions.

perform both rural and urban functions. Nagar Panchayats even now exist in some states. Municipal Councils are constituted in a smaller urban area while for larger urban areas municipal corporations are constituted. Demographic and other conditions, which are determining factors for constituting a particular type of Municipality, differ from state to state. It is left to the state to determine which type of municipality will be constituted for each urban area. The areas for different types of urban bodies would be specified by the Governor taking into account: population of the area; density of population; revenue generated by the local body; and percentage of employment in non-agricultural activities; the economic importance and other factors.

- 2) The Act makes it obligatory for every state to constitute such units. But if there is an urban area or part of it where municipal services are provided or proposed to be provided by an industrial establishment in that area then considering also the size of the area and other factors the governor may specify it to be an industrial township (for e.g. Bokaro Steel City). For such an area it is not mandatory to constitute a Municipality.

II) Composition of Municipalities.(243 R): A larger proportion of members in the Municipality are elected members chosen by direct election from the territorial constituencies in the Municipal area and for this purpose each Municipal area is divided into territorial constituencies also known as wards. In addition to the elected members, there are some nominated members. 3) All the seats in a municipality are filled through direct election of members chosen from territorial constituencies in the municipal area and for this purpose each municipal area are divided into territorial constituencies known as wards. Each seat represents a ward in the Municipality. Besides the seats filled by direct elections, some seats may be filled by nomination of persons, having aptitude in municipal administration. For this purpose the state legislature may specify the conditions and procedure for nomination of such persons. But the person so appointed does not enjoy any voting right in the meetings of the Municipality.

III) Constitution and composition of Wards Committees, etc (243S) : The 74th Amendment Act also gives provision for the formation of Wards Committees, consisting of one or more wards, within the territorial area of a Municipality having a population of three lakhs or more. The Legislature of a State may, by law, make provision with respect to (a) the composition and the territorial area of a Wards Committee; (b) the manner in which the seats in a Wards Committee shall be filled.

IV) Powers and Functions of Urban Local Bodies (243 X): The 74th Amendment Act, gives the those powers and authorities to the Municipalities which are necessary to enable them to function as institutions of self-government. The powers and functions devolved to the municipalities can be grouped into following major heads:

- (i) The preparation of plans for economic development and social justice;
- (ii) The performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

The Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

The 12th Schedule of the 74th Constitutional Amendment Act of India, defines 18 new tasks in the functional domain of the Urban Local Bodies, as follows:

- Urban Planning including town planning.
- Regulation of land use and construction of building.
- Planning for economic and social development.
- Roads and bridges.
- Water supply for domestic, industrial and commercial purposes
- Public health, sanitation conservancy and solid waste management.
- Fire services.

- Urban forestry, protection of the environment and promotion of ecological aspects.
- Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
- Slum improvement and up gradation.
- Urban poverty alleviation.
- Promotion of cultural, educational and aesthetic aspects.

Financial Status: In addition to the basic powers and functions, the 74th Amendment Act also outlines the provision to impose taxes by, and funds of, the Municipalities. As per the Article 243 X-, the legislature of a state may, by law,-

- (a) Authorize a Municipality to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;
- (b) Assign to a Municipality such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;
- (c) Provide for making such grants-in-aid to the Municipalities from the Consolidated Fund of the State; and
- (d) Provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Municipalities and also for the withdrawal of such moneys there from. As may be specified in the law.

V) State Finance Commission: (243Y) The Finance Commission constituted under article 243-I is also authorized to review the financial position of the Municipalities and make recommendations to the Governor on-

- The principles which should govern- the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Municipalities at all levels of their respective

shares of such proceeds;

- The determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Municipalities
- The grants-in-aid to the Municipalities from the Consolidated Fund of the State
- The measures needed to improve the financial position of the Municipalities
- Any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.

The actions to be taken on the recommendations are laid before the Legislature of the State.

VI) District Planning Committee: (243ZD): As per 74th Constitutional Amendment, in every State at the district level a District Planning Committee will be constituted to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole. The Legislature of a State may, by law, make provision with respect to

- (a) The composition of the District Planning Committees; (DPCs)
- (b) The manner in which the seats in such Committees shall be filled.

However it is clearly mentioned in the act that not less than four-fifths of the total number of members of such Committee will be elected members of Panchayats at the district level and elected members of the Municipalities in the district. The composition of the DPC will be in proportion to the ratio between the population of the rural areas and of the urban areas in the district.

The State Legislature also has the authority to assign the functions to District Planning Committee and the manner in which the Chairpersons of such Committees shall be chosen. Every District

Planning Committee while preparing the draft development plan has to consider:

- (i) Matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;
- The extent and type of available resources whether financial or otherwise;
- Consult such institutions and organisations as the Governor may, by order, specify.

The Chairperson of every District Planning Committee shall forward the development plan, as recommended by such Committee, to the respective State Government.

VII) Committee for Metropolitan planning. (243 ZE)-

There is also a provision for the formation of Metropolitan Planning Committee in every metropolitan area to prepare a draft development plan for the Metropolitan area as a whole.

The Legislature of a State may, by law, make provision with respect to the composition of the Metropolitan Planning Committees and the manner in which the seats in such Committees shall be filled. However the act also says that not less than two-thirds of the members of such Committee will be elected members of the Municipalities and Chairpersons of the Panchayats in the Metropolitan area in proportion to the ratio between the population of the Municipalities and of the Panchayats in that area. The functions relating to planning and coordination for the Metropolitan area are assigned to such Committees.

Every Metropolitan Planning Committee will prepare the draft development plan and has to consider:

⁶ Status of the Panchayati Raj in the States and the Union territories of India 2000, Institute of Social Sciences. p14

- (i) The plans prepared by the Municipalities and the Panchayats in the Metropolitan area;
- (ii) Matters of common interest between the Municipalities and the Panchayats, including co-ordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;
- (iii) The overall objectives and priorities set by the Government of India and the Government of the State;
- (iv) The extent and nature of investments likely to be made in the Metropolitan area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise;

The Metropolitan Planning Committee should also consult such institutions and organisations as the Governor may, by order, specify. The Chairperson of every Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

X) Bar to interference by courts in electoral matters (243ZG) -

The validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies shall not be called in question in any court. No election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

Members of the Lok Sabha, Rajya Sabha MP's and Members of State Legislative Assemblies representing constituencies, which comprise wholly or partly the municipal area concerned are also voting members of the Municipality. The Chairperson of the Committees (apart from Ward Committees) will have representation in a Municipality with voting rights.

- viii) To provide adequate representation of Schedule Caste and Schedule Tribes and of women in the Municipal bodies, provision has been made for **reserving seats** for them. But the number of seats so reserved for SC/ST is to be in proportion to their total population in the municipal area and such seats are allotted by rotation to different constituencies in a municipality. Out of the total seats to be filled by direct election, not less than one-third seats are to be reserved for women belonging to SC/ST. Not less than one-third (including seats reserved for SC/ST's) of the total seats to be filled by direct election in every election in every municipality are reserved for women and such seats may be allotted by rotation to different constituencies in a municipality. This is a mandatory provision.

The state legislature by law prescribes the manner in which the office of chairpersons is to be reserved for SC/ST's and women. The state legislature in a similar manner prescribes by law the manner of reservation of the offices of the chairpersons of Municipality. The state by law also reserves seats or offices of the chairpersons of Municipalities in favour of backward class, which is an optional provision.

- 4) The **term of office** of every municipality is five years from the date of appointment. If dissolved before its term (according to law in force), elections are to be held within six months. No amendment of the law in force can dissolve the municipality before the expiry of its normal term. The State Government or its agencies have done this to take away the possibility of arbitrary suspension or supersession of Municipalities. If the State Government decides to dissolve a Municipality before the expiration of its normal term it has to give the Municipality a reasonable opportunity for being heard.
- 5) The **qualification** for being a member of state legislature and for being a member of municipality are same, the only difference being that a persons who have attained the age of 21 years are eligible to be a member of a municipality, while the constitutional requirement is that for the election to the State Legislature of a state, a person must have attained the age of

- 25 yrs. A member of the Municipality can be disqualified on the same ground as the member of the state legislature.
- 6) The **State Election Commission** enjoys the power of superintendence, direction and control of the preparation of electoral rolls for, and the conduct of all elections to the municipalities. As per the provisions in the Constitution the state legislature of a state may, by law, make provisions with respect to all matters relating to or in connection with, elections to municipalities. A state election commissioner appointed by the Governor is to head the commission. The Governor of a state can provide staff to assist the commission to carry out the election processes.

Some state governments did not adhere to the spirit of the constitution and violated the principles of decentralization by making collectors chairpersons and in some others ministers (who are their nominee) of the DPC. However the dominant trend has been to assign this post to democratically elected head of the district level panchayat.

Though constituting a DPC is a mandatory function of every State, in practice only few states like Kerala and West Bengal have taken decentralized planning seriously others have shown a very slow approach.

Insights from Ground Realities:

The above provisions, have tried to give autonomous status to the Panchayats and the Municipalities. Yet there are certain disturbing factors, which have crept into the effective functioning of the Panchayati raj institution. Ministers at the centre and the various departments in the states concerned with various development schemes and programmes such as agriculture, health, education, women and child development and welfare are setting up parallel structures (creating registered societies), at the district level, thus trying to bypass the role of panchayats.

District Rural Development Agency (DRDA): Although Kerala, Madhya Pradesh and Karnataka have abolished DRDAs and

merged them with Zilla Panchayats now there is a move to revive DRDAs. The latest move in the Ministry of Rural Development is to make a Member of Parliament the head of DRDA with the District Collector as its secretary.

Watershed Development Programme (WDP): the Ministry of Agriculture and Ministry of Rural Development implement these programmes. Though there is no difficulty in allocating funds in the districts to the Zilla panchayats it is not being done. The implementing agency therefore should receive funds from Zilla panchayat and thus ensure that the responsibility of these programmes remain with Zilla panchayat, which is a democratically elected body.

Joint Forest Management Committee (JFMC): this committee works under the Ministry of Environment and Forests and excludes the involvement of local bodies. Though there is a greater role for the Panchayati Raj Institutions in the area of afforestation and social forestry and minor forest produce in scheduled areas, JFMC operates independently of local elected bodies.

Another lacunae in the act is that, the District Planning committees has been implanted strangely in the 74th Amendment act, because without executive functions they will not in any sense be institutions of self-government.

Despite lacunas, new programmes came into being. Participatory and sustainable Local Level Development Planning with the slogan: 'Planning by the people and for the people' taking place in Kerala panchayats and municipalities. About 40 percent of State funds has been allocated for the panchayats and Nagar Palikas institutions to be used exclusively by it for productive service, social service sectors and infrastructure in the ratio 40:30:30 in rural areas is something which other states could follow.

In order to prevent any kind of misappropriation by the representatives (where the representatives used their position to get official sanctions by submitting false vouchers and bills), **the right to Information** was introduced. This has led to transparency where

every state is to open their records to public. The right to information is getting momentum, where every citizen has the right to information and on payment he or she could demand and receive details of the expenditure on the work done over the last five years in his or her village and all the documents could be photocopied as evidence, to use it in future. Tamil Nadu, Goa, and Kerala have already followed it. States like M.P. and U.P. has opened many departments of Panchayati Raj to public eye.

The new panchayati raj has opened up vistas for better flow of information. Information, which was earlier, considered the domain of only the dominant classes has percolated to the panchayats, thus bringing in transparency.

Self-governance for the Scheduled Areas:

As per the 2001 census tribal population constitutes about 8. per cent of the total population of India and majority of them are positioned in rural areas. Most of the tribal societies have their own customary laws, their own mode of living, organization, traditions, cultural mores, etc. and are total cut off from the rest of the society. The tribal people have a strong community organization thus formation of formal institutions like Panchayats created an anomalous situation. These formal institutions often came in conflict with the tribal customary laws and traditions. Whenever these formal institutions tried asserting its authority, confrontation took place. The formal institution failed to recognize the vibrant tribal community which has been managing its affairs in accordance with its tradition through ages, meeting effectively the challenges, which have been coming in its way. The ongoing confrontation between tribal people and the formal system was ignored and often treated as law and order problem. Thus it was felt to bring a system whereby the tribal could exercise their freedom without any intervention from outside forces and to create a structure, which would be in consonance with the traditional system and yet encompass the modern elements as envisaged in various parts and Schedules of the Constitution.

A committee consisting of Members of Parliament and Experts under the chairmanship of Shri Dilip Singh Bhuria, was created to suggest an

alternative system to be built on the foundation of traditional institutions that existed in tribal areas. The committee was to suggest steps towards:

- a) Harmonization of Fifth, Sixth, Eleventh and Twelfth Schedule of the Constitution as they intrude upon the Panchayat Raj institutions; b) to formulate the salient features of the law that may be taken up for enactment by Parliament for extending the provisions of the Part IX of the Constitution to the Scheduled Areas referred in Clause 1 of Article 244 of the Constitution subject to exceptions and modifications as may be necessary under Article 243 M (b); c) variations and modifications in other articles relevant to the Fifth Schedule Areas.

The recommendations were as follows:

- The committee felt that while shaping the new Panchayati Raj law in tribal areas, the traditional structure should be blended with the modern structure and due attention should be paid to the uniqueness of tribal societies and tribal areas since most of them have their own customary laws, cultural traditions, mode of living etc. Since the tribal communities have been living independently for years they have exercised control over and access to natural resources. The Gram Sabha and village councils have been their vibrant institutions in the field of administration, religion, politics, economic, justice etc.
- While drafting the law, the committee felt that the advantages of both the fifth and the sixth schedules should be kept in mind. The fifth schedule should be treated as the foundation and the design and contents of the sixth schedule should serve as a reference frame for a district within the broad canvas of the fifth schedule. However, ethnic, regional and other related variations should be given due consideration.
- At the state level the **tribe's advisory council**, envisaged in the fifth schedule as a consultative body, needs to be reformed to make it more effective and functional. The chief minister of the state should be its chairman and its meetings should be held once in every three months.
- At the central level, **the central advisory council** to be revitalized, to serve the purpose of tribal policies and programmes and render

advice in disputes between a state government and the Tribes advisory council or between the District Council and the tribes advisory council which should be binding. The prime minister could chair its meetings and its members may be the ministers for welfare, home, and rural development and the deputy chairperson of the Planning Commission.

- Many of the existing administrative boundaries were created during the colonial times. After independence, the boundaries exist in the same shape and size. The committee therefore recommended that boundaries should be reorganized on the basis of its geography, ethnicity and demography. The whole process the committee felt should be completed and finalized within a couple of years.
- The oral traditions and milieu is to be kept in mind while forming **cooperative organizations** among the tribals. (The tribal societies are characterized by communitarian and cooperative spirit, visible in many of their activities like shifting cultivation, house construction etc).
- To assign **Minimal role** to the lower functionaries like the **police, excise, forest and revenue** that have shown least interest in the tribal society and have acted in an authoritarian manner. Therefore the committee felt they should be made to work under the control of concerned panchayats to prevent further exploitation of the tribal community.
- The committee felt that there should be no barrier for the **gram Sabha** to carry forward its traditional role. Further, a gram Sabha may delegate functions like execution of development works to its traditional body.
- A number of small villages or hamlets to have a village Panchayat, known by different names such as gram panchayat, anchal or parha or pargana panchayat. This tier is to resemble the lowest tier in the 1992 act and its members may be elected directly.
- Constituencies could be delimited for election of members to the intermediate and district Panchayats. The district level panchayat may be called **autonomous district council (ADC)**.
- In certain districts, the population of the scheduled tribes is less than 50 percent of its total population, but it may be concentrated in a part

or parts of the district, say in some blocks or a sub-division or sub-divisions. Therefore Sub-district Council may be constituted for such areas called the **autonomous sub-district councils (ASDCs)**. However this recommendation should be regarded as an interim arrangement, awaiting reorganization of administrative boundaries.

- For the organizational structure of the autonomous district council, the committee recommended the adoption of a broad frame-design of ADC's contained in the sixth scheduled areas namely; Assam, Meghalaya, Mizoram and Tripura. There should also be scope for setting apart seats (not more than five) in the District Council for minority tribal communities, who cannot find representation through the election process. Such nominations should be made in consultation with the governor.
- Lok Sabha Scheduled Tribe MP's should be associated with intermediate level of Panchayat and with the district council. But the representation should not be restricted to Scheduled Tribe MLAs , even non-ST MLAs should be associated with both tiers.
- Since the Scheduled and the Tribal area consist mostly of tribals, the different tier of panchayats therefore should have more of scheduled tribe members. Further the chairman and the vice-chairman should be scheduled tribe.
- The sixth schedule confers legislative, executive, judicial, financial and developmental responsibilities to the district council. The districts in the Scheduled Areas should adopt the sixth schedule format, and expand it to include subjects that are indicated in the Eleventh Schedule of the constitution.
- The legislative powers of the ADCs in the fifth scheduled areas are more or less similar to the sixth scheduled with some amendments. For the administration of justice the committee recommended formation of a traditional jury-based legal system. It recommended non-interference of police in cases not involving non-heinous offences. The gram Sabha should handle such cases. The sources of funds for the panchayats in the scheduled areas should be same as the sources of finance mentioned in the 73rd Amendment for the Panchayats.
- Funds received from sources other than panchayats should be kept

as "charged" category as opposed to "Voted" category to avoid misutilization or diversion of funds.

- To prevent mismanagement of funds occurring in the tribal sub-plan fields, the tribal sub-plan funds (whether pertaining to State Plan or specific central assistance or any other) pertaining to different sectors of development should be placed under ADC's for distribution among panchayats in the districts. Moreover the state and the centre should devise method for direct allocation of funds to the ADCs.
- All government servants and officials concerned with the Panchayats in the scheduled areas and located within its jurisdiction should be under its control.
- As per the provisions under the sixth schedule a commission must be appointed by the governor to examine and report on matters relating to the functioning of ADCs. The committee recommended that in such a commission representation of scheduled tribes should be there.
- The tribes advisory councils and autonomous district councils in the Scheduled Areas should be given the power to review the relevance of the existing laws and their applicability and to exclude any irrelevant laws if any and to include any law that may be useful.
- The law passed by the parliament will supercede such and any laws, which have been enacted in pursuance of the 73rd and 74th Constitution Amendment Acts.
- In spite of an attempt to schedule out the scheduled areas started earlier, the process still remains incomplete. The committee therefore recommended the inclusion of the left out tribal pockets in the scheduled areas.
- The framework of the Sixth Schedule to be looked afresh in the north-eastern region in the light of the suggestions made by the committee.

The above recommendation of the committee takes into account provisions of the fifth and sixth schedules and the 73rd Constitution amendment. It has given due importance to the social, economic, political, and cultural aspect of the tribal society. It has also taken note of

the tribal areas not included in the fifth and sixth schedules of the Constitution.

Based on the Bhuria committees recommendations for self rule to the tribal population, Parliament extended certain provisions in the 73rd Amendment act meant for the Panchayats to the Scheduled Areas. Accordingly, a bill was introduced in the Parliament on 19 December 1996 and subsequently, the President's gave his assent on 24 December 1996 after which it became a part of the Constitution. Scheduled Areas under the **fifth Schedule includes dhra Pradesh, Jharkhand, Gujarat, Himachal Pradesh, Madhya Pradesh, Chattisgarh, Maharashtra, Orissa and Rajasthan. The tribal areas under the sixth Schedule include Meghalaya, Mizoram, Nagaland and Tripura in the North Eastern region.**

The outstanding features of the Act (extension of Scheduled Areas) includes the following:

The most notable feature of this act is that the **Gram Sabha** has been made the nucleus and the soul of all activities. Though 73rd Amendment has a provision for the constitution of the gram sabha but it is the State legislatures, which has been endowed by law to define the powers and functions of the Gram Sabha. The extended act however, has made **the Gram Sabha the soul of the democratically decentralized administrative structure, the symbol of tribal identity, traditional customs and practices, and community assets.** Any of the **state legislation on the Panchayats** for the tribal areas has to be in agreement with the customary law, social and religious practices, and traditional practices of community resources.

A village has been recognized as a habitation or a group of habitations or hamlet or a group of hamlets comprising of community and managing its affairs in accordance with the traditions and customs. Since the tribal settlements are scattered and they live in small units, each unit can be declared as a village.

The mandatory provisions of the extended Act are:

- 1) Every village is to have a **Gram Sabha** consisting of persons whose names are included in the electoral rolls for the Panchayats at the village level. Every Gram Sabha is **empowered to safeguard and preserve the traditions, customs and cultural identity of the people, community resources and settling local disputes**

through customary methods. The Gram Sabha under the extended act is to **approve plans, programmes and projects meant for social and economic development of the village panchayat prior to its implementation by Panchayats at the village level.** The gram Sabha has been empowered **to identify and select beneficiaries for poverty alleviation and other programmes.** This provision reduces the chance of misuse of powers by the bureaucracy and the politicians.

- 2) Every village panchayat has to get a certificate from the Gram Sabha for the utilization of funds meant for projects and programmes for social and economic development, poverty alleviation and other programmes.
- 3) Acquiring land for development projects and rehabilitation and resettlement of persons affected as a result of any project undertaken in the scheduled areas has to be done in consultation with either gram Sabha or the Panchayat at the appropriate level. Planning and implementation of the project has to be coordinated at the state level.
- 3) Planning and management of minor water bodies in the scheduled areas have to be managed by the Panchayats at the appropriate level.
- 4) For grant of license or lease of land for the purpose of mining minor minerals, the recommendation of the gram Sabha or the panchayat at the appropriate level is mandatory. Grant of concessions for the exploitation of minor minerals by auction has to be given on the recommendations of the Gram Sabha or the panchayat at the appropriate level. This is a measure taken to prevent illegal mining and overexploitation of natural and economic resources.
- 5) Besides the above mandatory powers the gram sabha or the panchayat at the appropriate level enjoy other mandatory powers such as: i) to enforce prohibition or to regulate and restrict the sale and consumption of any intoxicant; ii) the ownership of minor forest produce and management of all types of village markets; iii) to prevent alienation of land and to take appropriate action to restore any unlawfully alienated land of a scheduled land of a scheduled tribe in the scheduled areas; iv) to exercise control over local plans and its resources including tribal sub-plans.

- 6) As per the extended Act, **Reservation of seats** in the scheduled areas at every panchayat has to be in proportion to the population of the communities in that panchayat for whom reservation is to be given under part IX of the constitution. Reservation of seats at all tiers of panchayats for the scheduled tribes shall not be less one-half of the total number of seats; the act provided further that all seats of chairpersons of panchayat at all levels shall be reserved for the scheduled tribes.
- 7) In case there is no representation of scheduled tribes at the intermediate or district level then the state government can nominate a person to represent such tribes but the number of persons to be nominated cannot exceed one-tenth of the total members to be elected in the panchayat.
- 8) The state legislature while endowing powers to the Panchayats has to ensure that Panchayats at the lower level do not assume the powers and authority of any lower level panchayat or the gram sabha.
- 9) Thus we see that the extended Act gives the Gram Sabha immense mandatory powers. It gives them independence, freedom and autonomy to take their own decisions and manages their own affairs. The provisions are designed to protect the tribals from exploitation and help in their genuine development and self-reliance. By assigning the gram Panchayats power to approve plans, programmes and projects for the social and economic development. It has tried to reduce the chances of misuse of power mainly by politicians and bureaucracy in the management and implementation of development programmes. It brings in transparency and accountability in the system and leads to closer monitoring by the local people. It would have been better if provisions had been made where Gram Sabha could identify schemes and locations for any projects.
- 10) The extended act has taken cognizance of the longstanding problems of the tribal people in matters of indebtedness, land alienation, displacement, alcoholism, right on water, forests and other natural resources. The permission of the Gram Sabha or the appropriate Panchayat has been made mandatory with regard to acquisition, resettlement and rehabilitation of any tribal lands.
- 11) The extended provision has tried to look into the perennial problems

of the locals like enforcing prohibition, ownership of minor forest produce, preventing alienation of land, managing village markets, control over money lending, control over institutions dealing with social sectors and their functionaries and control over local plans and resources including tribal sub-plans. This provision thus protects tribals from exploitation and help in their genuine development.

Shortcomings

There are **Lacunae** within the act, it applies to only the fifth scheduled areas; it does not include the sixth schedule areas. Moreover there are many tribal areas that have been excluded from both the schedules, thus preventing them from reaping the advantages mentioned in the special constitutional provisions.

- 1) The Act does not mention anything about taking away land belonging to the local population by the central government in the name of national interest. For e.g. in order to carry out any defense programme like testing of missiles, or conducting nuclear tests, the government can act arbitrarily and can conduct tests on the land belonging to the tribals. Though as per the constitutional act, this is a clear violation or misuse of tribal property. The government in such cases often gets away by saying that it is carrying on the programmes in the name of national interests. Security of the nation is given precedence in such cases.
- 2) The rights over land and resources in the forest regions where the tribal populations had historically lived had been taken away by the Indian Forest Act 1927 and the subsequent land acquisition acts (both colonial acts). The shedule five areas and the Panchayati raj had not reinstated this right back to the tribal people.

Conclusion: The 73rd and 74th amendments are a milestone in the history of the rural local government. It is an act of Political and administrative decentralization, thus releasing the local population from control by politicians and bureaucracy. The amendment has made an attempt to make the local bodies more broad based to rescue them from possible domination by the socially and economically dominant feudal lords.

But the question that remains to be answered is ***whether a mere constitutional provision is an adequate substitute for political will to decentralize and devolve powers to the local bodies?***. Added to this, international commitments in the form of GATS further negates the ground principles and make mockery of the system.

Despite all this internal and external inherent weaknesses still Panchayats are the only space available for the local population to effectively intervene, expand and tilt the balance of power in favor of them.

Tourism is one sector where Panchayats can effectively intervene in services sector, especially when tourism projects are appropriating space and resources, including land, water, natural resources etc. that is meant for local indigenous community under the customary laws. Proactively, Panchayats could also raise voices against non-inclusion of local concerns in planning implementing and monitoring of tourism projects. It is in this backdrop we turn our attention to, the next section, which will also try to explore whether Panchayats can override the policies pursued at the national and international level

SECTION III

Analysis:

Present day tourism promotion by any Government is purely for economic reasons because it assumes that tourism generates huge foreign exchange and creates direct and indirect employment opportunities in services associated with it. It rarely brings into focus the ill affects associated with the tourism industry. It fails to address the problems of the people who gets actually affected and displaced as a result of tourism industry. Both national and international policies do not give enough space in their policies to address the problems of the indigenous community at places where tourism is promoted.

However the government made some effort to bring in greater decentralization of power to the Panchayats and thereby to the local people through 73rd and 74th Constitutional Amendment Acts. It endowed the Panchayats with power and authority as to enable them

to function as units of self-government. They were given power to implement plans for the socio-economic development of their region in letter, but in spirit it is not so. But as this section reflects that in spite of these measures, whenever a tourism project comes up in a local area, the Panchayats do not enjoy enough power because the national and international policies contravene them and act as a stumbling block in exercising those minimal powers. Thus negating the true spirit of decentralization.

The focus of this section therefore, will be to analyze, how in spite of the granting Constitutional status to the Panchayats, the present tourism policy and the globalisation processes and international trade agreements namely GATS negates the Panchayats' powers and are not favorable to the local inhabitants.

The methodology for analysis

Tables have been created so as to focus the rights and responsibilities of the Panchayats as per the 73rd and 74th amendment. This is followed by the requirements of tourism development, tourism policies and the international agreement GATS. Possible anomalies between these are also marked as remarks in the adjacent column.

Table 1 Panchayat Rights and tourism expectations

Rights and powers of the Panchayats	Requirements of the Tourism Industry	Remarks
Land improvement, implementation of land reforms.Regulation of land useand construction of buildings.	Requires land to build hotels, lodges, resorts, swimming pool, casinos, golf course etc	For acquisition of any land within the territorial area of a Panchayat, tourism industry needs permission of the panchayats
Acquiring land for development projects and rehabilitation and resettlement of persons affected as a result of any projects undertaken in Scheduled areas has to be done in consultation with either Gram Sabha or the Panchayat at the appropriate level. (thus the tribal people does not have to wait for the concerned authorities to act in the vital matter of land exploitation).	Requires land to build hotels, lodges, resorts, swimming pool, casinos, golf course etc. and to carry out other projects related to tourism	Requires the permission of the Panchayats.
Minor irrigation, water management and watershed development.		

Panchayat at the appropriate level. (thus the tribal people does not have to wait for the concerned authorities to act in the vital matter of land exploitation).	Requires land to build hotels, lodges, resorts, swimming pool, casinos, golf course etc. and to carry out other projects related to tourism	Requires the permit of the Panchayats
Minor irrigation, water management and watershed development.	Requires water for the purposes related to the hotel industry	Requires the permit of the Panchayats
Planning and management of minor water bodies in Scheduled Areas.	For regular supply of water it depends on the rivers, ponds, lakes, streams	Requires the permit of the Panchayats
Water supply for domestic, industrial and commercial purposes.	Requires water for various purposes related to the hotel industry. (bathing washing, drinking, swimming, cleaning etc	Requires the permit of the Panchayats
Roads, culverts, bridges, ferries, waterways and other means of communication.	Basic infrastructure required to facilitate tourism. For the smooth movement of the tourists	Requires the permit of the Panchayats
Planning for Social and economic development.	Requires proper health facilities, sanitation, garbage disposal system, regular water supply, fuel, drainage system, markets, fairs etc	Requires the permit of the Panchayats

Minor forests produce (community resources)	opening the forests to tourists. Building resorts inside the forest. Providing Safari to have a close look at the animals. Bonfire etc.	Requires the permission of the Panchayats.
Minor forests produce (community resources)	opening the forests to tourists. Building resorts inside the forest. Providing Safari to have a close look at the animals. Bonfire etc	Requires the permission of the P a n c h a y a t s
Recommendation of the Gram Sabha or Panchayat is mandatory for grant of license or lease of land for the purpose of mining minor minerals.	requires lime, granite, marbles, stones, blue metal for laying roads, stone slabs for construction, sand etc.	Requires the permission of the P a n c h a y a t s .
Rural electrification, including distribution of electricity.	Requires street lights.	Though generation of electricity comes under the purview of the state, since it's a state subject. But, permit of the Panchayat is required for street l i g h t i n g .
Solid waste management	Requires proper and safe garbage disposal system.	e x p e c t s t h e p a n c h a y a t s t o provide.
Health and sanitation, including hospitals, primary health centres and d i s p e n s a r i e s .	Requires proper drainage, precautionary health measures to curb contagious diseases. Spraying disinfective liquids and sprays.	e x p e c t s t h e p a n c h a y a t s t o p r o v i d e

Cultural Activities	Organizing festivals of local and indigenous deities, entertainment activities, circus, fairs, bullock rallies etc.	expects the panchayats to provide
Urban forestry, protection of the environment and promotion of ecological aspects.	Consumption of natural resources.	permit of the panchayat is needed as it belongs to them and they have acquired natural right over it as a result of staying there for years.
Welfare of the weaker section and in particular Schedule Caste and Schedule Tribes.	Have no interest in it, on the other hand they are exploiters of women and children.	expects the panchayats to provide
Women and child development.	have no interest in it, on the other hand they are exploiters of women and children.	expects the panchayats to provide
Maintenance of community assets	roads, street lights and roadside trees and parks.	expects the panchayats to provide
Market and fairs.	Local public market (Sunday markets and weekly markets), fish market, vegetable market, local handicraft, jewellery, shells and pearls etc.	
	Labour	May or may not depend on the labour of the locals as they have their own set of professional staff and caterers.

Cultural Activities	Food	May or may not depend on them.
	Travel Culture (to see the culture of the indigenous groups inhabiting there.	Requires the consent of the Panchayats.

Table 1 First and the second Column lists out the mandatory power and functions of the Panchayats given under the Constitutional Amendment Act namely 73rd and 74th and the requirements of the tourism industry respectively. A comparative study has been made between the above tables. The table makes it very clear that tourism industry is very much dependent on the Panchayats because they use the resources, which fall, within the Panchayats territorial area. Hence it becomes obligatory on them to take the permission and consent prior to making use of them. Panchayats revenue sources mainly comprises of house tax, property tax, vehicle tax, and entertainment surcharge and fee for licensing the industries including tourism industry. When other sources of revenues are limited they look for these sources to accomplish mandatory and developmental functions assigned to them. This has invariably forced the Panchayats to issue licenses for some unwanted and hazardous industries to tide over the financial crisis in the absence of revenue support in the form of subsidies from the state exchequer and consolidated fund.

Purely for monetary benefits Panchayats allows industries like tourism, to come up in their region. While granting permission, the Panchayats too has certain expectations.

- The Panchayats expects the tourism industry to pay tax when they occupy their land. Though the amount is very meager to take care of the socio-economic development, the Panchayats further expects a greater role in the industry itself as it leads to displacement of people and privatize their major source of livelihood and other naturally acquired scenic beauty.

- The Panchayats also expects proper management and land use, which is not detrimental to the environment and mainly aiming towards the preservation and conservation of their natural resources and heritage.
- Since the hotel industry depends on the same source for water, which the Panchayats depend on, the Panchayats expects beforehand to be informed about the source, the volume of requirement, as they do not want to be deprived of the basic source and facilities, which belong to them.
- As far as forests and usage of mineral resources are concerned, the state accepts the community's right over minor forest produce and minor minerals. When opening the Minor forests to the tourism industry, the locals expects the full ownership of the natural products such as bamboo, gum, honey, coir, fruits, herbal medicines belonging to the forest as they enjoy customary rights over it. But it is widely seen that the locals do not have access to the forests and its products, once an industry is set up.

Apart from the above expectations, the right to information, which is gaining support in many states, makes it obligatory for any industry like tourism to inform beforehand to the Panchayats about any project from its initial stage to its completion.

- The Panchayats have the right to know about the master plan, budget and plan outlay of a project. The Panchayats also ought to know what role they are going to play from its planning stage to the implementation and monitoring.
- The Panchayats also expects economic benefit, employment opportunities and some vocational training and education for its people to get familiarized with the latest technology and development.
- Other expectations, which the Panchayats expects from the

tourism sector, are to keep in mind the uniqueness of the local tradition and culture

Though the above are the expectations of the Panchayats, it becomes the duty of the tourism industry to follow these guidelines when setting up a project. But it is widely seen that whenever tourism projects comes up in a local area, the locals are not involved or consulted mainly on the premise that they are uneducated and lack the expertise and know-how. Some menial jobs are given to them and outsiders occupy all high profile, prestigious and sophisticated jobs. In most cases it is also seen that land is forcibly taken away by the states in the name of dubious public interests and given away to big hotel chains, e.g. Goa, where shacks were removed and big hotels were set up in its place. Table 2 will further make it clear that the tourism policy of the government too does not accommodate the rights of Panchayats.

Table 2 Rights of Panchayats and tourism policy

Rights and powers of the Panchayats	Present Tourism policy (to be reviewed)
Land improvement, implementation of land reforms.	It is highly capital intensive. Investments runs into crores.
Regulation of land use and construction of buildings.	Technological and efficiency intensive (absence of labour). Introduce professionalism excellence through training and re-training of human resources. Optimum use of e-commerce and e-mails, use of internet, setting of tourists information Kiosks, keeping abreast with the latest global technologies to help facilitate and promote tourism.
Acquiring land for development projects and rehabilitation and resettlement of persons affected as a result of any projects undertaken in Scheduled areas has to be done in consultation	

with either Gram Sabha or the Panchayat at the appropriate level. (thus the tribal people does not have to wait for the concerned authorities to act in the vital matter of land exploitation).	Big Highways (which are generally funded by World Bank, Asian Development Bank etc.)
Minor irrigation, water management and watershed development.	Expand foreign tourists arrivals, mainly high spending tourists who needs five-star accomodation, swimming pool, golf course, casinos etc.
Planning and management of minor water bodies in Scheduled Areas.	Focus on Soochna (information), Swagat (welcome), Suraksha (security) of the tourists.
Water supply for domestic, industrial and commercial purposes.	Adoption of new technology (kiosks, IT etc.)
Roads, culverts, bridges, ferries, waterways and other means of communication.	To achieve necessary linkages and synergies in the policies and programmes of all concerned Departments/agencies by establishing effective co-ordination mechanisms at Central, State and District level. The focus will therefore be to develop tourism as a common endeavor of all agencies vitally concerned with it at the Central and State levels, public sector undertakings and the private sector.
Planning for Social and economic development.	To encourage Peoples participation in tourism development including Panchayati Raj institutions, non-governmental organizations and enterprising local youths to create public awareness and to achieve a wider spread of tourists facilities.
Minor forests produce (community resources).	Steps will be taken to work towards the integrated development of all the tourist circuits of the country with the involvement of all the infrastructural departments, state governments and the private sector and to facilitate direct and easy access to those places from international destinations.

Recommendation of the Gram Sabha or Panchayat is mandatory for grant of license or lease of land for the purpose of mining minor minerals.	Diversify Tourism products in such a way that it supplements the mainstream tourism.
Rural electrification, including distribution of electricity.	The principle of sustainable development stipulates that the level of development does not exceed the carrying capacity of the area. It will be the Government's policy to ensure adherence to such limits through appropriate planning instruments, guidelines and enabling regulations and their enforcement.
Solid waste management	Foreign investments and incentives to maintain the high quality standards in services, hotels and tourism related industries.
Health and sanitation, including hospitals, primary health centres and dispensaries.	Being a global industry it requires the participation of various international agencies and collaborators with other countries.
Cultural Activities	Government support for special programmes and schemes for the development of North-Eastern States, Himalayan region and island States/ union territories with a view to achieve overall economic development of the region, a measure considered necessary to remove regional imbalances.
Urban forestry, protection of the environment and promotion of ecological aspects. Urban forestry, protection of the environment and promotion of ecological aspects.	It seeks to streamline the tourism policy in such way so as to avoid adverse impact on the natural environment and cultural heritage.
Welfare of the weaker section and in particular Schedule Caste and Schedule Tribes.	
Women and child development.	
Maintenance of community assets.	
Market and fairs.	

A look at Table 2 **separately** shows that Rights and powers of the Panchayats and present tourism policy runs contrary to the Panchayats expectations, thus belying the rights granted to them. Even though it talks about encouraging peoples participation, and developing necessary synergies and co-ordination at Central, State and District level in order to develop tourism, it has left no space for it. It is highly capital intensive, technology and efficiency intensive, caters to high spending tourists who wants five-star accommodation, talks about adopting new sophisticated technologies, talks about encouraging foreign investments to maintaining high quality standards in services, related to hotel and tourism industries and encourages big highways each of these in no way involves the participation of the local community. The ambiloquy policies of the government are more or less caters to the expectation of the hotel industry. It is more in tune with the ongoing economic liberalization process. It favors easy access to multinational corporations thus further reducing the chances of the Panchayats to intervene in the tourism sector. It fails to address the issue of removing regional imbalances.

Table 3 Rights of the Panchayats and GATS

Rights and Powers of the Panchayats	GATS
Land improvement, implementation of land reforms.	GATS allows foreign service suppliers full access to domestic markets provided a country commits to opening up its sectors.
Regulation of land use and construction of buildings.	Tour operators, hotel enterprises and other tourism-and travel- related companies from one country will be able to set up operations in other countries.
Acquiring land for development projects and rehabilitation and resettlement of persons affected as a result of any projects undertaken in Scheduled areas has to be done in consultation with either Gram Sabha or the Panchayat at the appropriate level.	In the hotel sector, GATS will facilitate franchising; management contracts, technical service agreements, licensing and patents.

Minor irrigation, water management and watershed development.	If National Treatment is granted fully, foreign companies will be able to sell their services under the same terms and conditions as domestic companies and suppliers.
Planning for Social and Economic development	Subsidies and tax benefits, which are major incentives for development of domestic industries, will have to be shared with the foreign suppliers. In other words it takes away the right of selective promotion enjoyed by the domestic industries.
Minor forest produce (community resources)	Reduction of local equity share will promote further concentration and integration. Relaxing the terms and conditions for the foreign suppliers and treating them at equal footing will place the local providers at a disadvantage.
Recommendation of the Gram Sabha or Panchayats is mandatory for grant of license or lease of land for the purposes of mining minor minerals.	Services sectors under GATS include: Business and professional services, communication services (postal, telecommunications, audio visual), construction and related engineer services, distribution, education, environmental services (water delivery, energy, refuse disposal), financial services, including banking and insurance, Health related and social services, tourism and travel related services, recreational, cultural and sporting services, transport services. Sectors in which India has committed one can expect foreign direct investment.
Solid Waste Management	GATS mainly talks about efficiency in services and professional management. Availability of outdated and depleted technology and lack of technical Know-how, puts the locals at a disadvantage. Import of technology is expensive and closing the gap between the local providers and the foreign providers will be a difficult task.

Health and Sanitation, including hospitals, primary health centres and dispensaries.	Will be able to move staff to a foreign country and base them without restrictions.
Cultural Activities.	Will be allowed to effect international transfers and payments for current transactions without restrictions
Welfare of the weaker section and in particular Schedule Caste and Schedule Tribes.	
Women and Child development.	
Maintenance of community assets.	
Markets and fairs.	

A look at the Table 3 **separately** further shows that the international trade agreement, namely GATS does not accommodate local aspirations and overrides the powers enjoyed by them. Under GATS providers of travel and tour related services try to expand their business in destination countries and thus compete with the local providers who is in no way able to put up a fight with the foreign providers. Technology transfer is expensive and involves crores of money, putting the developing countries at a disadvantage. Availability of outdated and depleted technology and lack of technological know-how, thus fails to close the gap between the local providers and the foreign operators. Under the National Treatment, treating the domestic and foreign suppliers equally will place the locals at a disadvantage. Subsidies and tax benefits, which are major incentives for development of domestic industries, will have to be shared with the foreign suppliers. In other words it takes away the right of selective promotion enjoyed by the domestic industries. Reduction of few local equity shares will no doubt promote further concentration and integration. Relaxing the terms and conditions for the foreign suppliers and treating them at equal footing will place the local providers at an inconvenience. Highways, oversized high-end airports may be far from the reach and needs of the local communities who may wish to participate in the benefits of tourism.

Thus we see present economic priorities and tourism policy of the government is more in consonance with the international agreements

and in no way accommodates the local community. If the consensus is in favor of giving maximum benefits of development and greater participation and involvement of the local people, its time to take a hard look at our present policy framework. The Planning Commission has acknowledged that after all these years of State programmes, the pauperization, exploitation and disintegration of tribal communities continues. The State Acts should endow the Panchayats with all powers: legislative, executive and judiciary so as to enable them to function as units of self-government and decide their own destiny without any intervention from above. However in reality states adopt a very skeptic attitude towards the Panchayats and is seen as an extended administrative structure rather than treating them as a unit of self-government. A close look at the below table will further reveal the attitude of the state.

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Behavior of the States in devolving in powers to the Panchayats:

States	Ultimatum given on Amending the Act	Date and Year of Enforcement of Act by different States	Subjects devolved by State Legislature to Panchayats	Remarks
Andhra Pradesh	April 24, 1992	Panchayati Raj Act, 1994 replaced the Andhra Pradesh Gram Panchayat Act, 1964 and the Andhra Pradesh Mandal Praja Parishad and Zilla Pranalika Abhivrudhi Sameeksha Mandals Act, 1986, in 30 May 1994.	Maintenance of government roads and buildings, provision of street lights, supply of drinking water, sanitation, primary education, cooperatives, agricultural development and housing (Eight subjects to the Gram Panchayat). Community development, agricultural development, animal husbandry and fisheries, rural health and sanitation, land development, irrigation, roads, electricity, education, anti poverty programmes, women and child welfare (Twelve subjects to the Mandal Parishad)	The State government has failed to devolve powers to the panchayats and has gone ahead creating parallel structures to carry out rural development programme. A recent instance to show this is launching of a new programme, named 'Janmabhoomi' on 1 January 1997 to promote participatory planning and development in rural areas. The programme incorporated the ongoing prajala vaddaku palana (administration on the door step) and the Shramdan (voluntary labour) schemes. However, in bypassing the elected representatives of, different tiers of the Panchayats, the new programme has proved to be no different from various

				<p>special schemes and projects of the union and state governments for rural development and the MPs and MLAs Area Development Scheme. It therefore violates the spirit, of not the letter, of the 73rd Constitutional Amendment, which gives pivotal place to these bodies in planning and implementing programmes of economic and social development in the village.</p>
Bihar	April 24, 1992	<p>The Bihar Panchayati Act, 1993, repealed the Old Panchayati Raj Act, 1947, and the Bihar Panchayat Samiti and Zilla Parishad Act, 1961.</p>	<p>The Eleventh Schedule of the Constitution gives twenty-nine subjects to Panchayats. The Bihar act assigns thirty-one functions to gram panchayats, twenty-seven functions to samitis and twenty-four functions to parishads, subject to such conditions as may be prescribed by the government from time to time.</p>	<p>A conspicuous omission of the act is non-inclusion of land reforms in the Panchayati list. With their proximity to land, village Panchayats could, perhaps, contribute significantly in land reforms. There is a lot of overlapping of functions between the three tiers. Besides, the Panchayats do not have exclusive jurisdiction,</p>

				<p>independent of the state government over the functions earmarked for them. Under such circumstances most of the functions will continue to be performed by the line department of the state government. The new act keeps the Panchayat under strong grip of the state government units, thus failing to help them emerge as units of self-government.</p> <p>The act though reflects a better understanding of the democratic norm for inter-panchayat control of upper tier over the lower tier of the Panchayati Raj Institutions. However, the act also gives the state government concurrent power to control over Panchayati Raj Institutions through competent authority or its nominated officers. This hampers the growth of</p>
Gujarat	April 24, 1992	<p>The Gujarat Panchayat Act, 1993, came into force on 15th April 1994 replacing the Gujarat panchayat Act, 1973.</p>		

				decentralized democracy at the grass root levels. The increasing influence of the MLAs and MPs further affects the functioning of the Panchayats.
Karnataka	April 24, 1992	<p>The Karnataka act of 1993 came to force on 10 May 1993, is considered a landmark in the history of local government in India, as it demonstrated for the first time the willingness of a state government to divest itself of substantial powers and functions in favor of sub-state institutions, was replaced by the Karnataka act 1983.</p>	<p>Gram Parishad were mandated to provide sanitary latrines to households and community latrines, maintain water supply works, achieve universal enrolment in primary schools and universal immunization, among others. The taluk panchayat were obliged to improve water supply and to get half-yearly reports on the functioning of gram Panchayats. Establishment of health and maternity centres, social forestry and prevention of drilling of irrigation wells in the vicinity of drinking water wells were the obligatory functions of Zilla Parishads.</p>	<p>The act is no different from the earlier legislation of 1983; it failed to establish Panchayats as units of self-government and made it an agency of State government. The schedules of the act of 1993 defines the functions of the three tiers of PR only in general terms; there is no clear division of responsibility among the tiers in overlapping functional areas. The general approach of the devolution under the 1993 act follows the previous act of 1983 of segregating 'regulatory' and 'development' function at the district level and below, the development functions being</p>

entrusted to the appropriate tier of Panchayats. Resource transfer is mostly tied to programmes and activities; untied funds are not enough for the Panchayats for launching their own initiatives. The percentage of Panchayats share from the plan outlay and the state's resources have been stagnating lower than what they were in the late eighties. In areas like, rural electrification, public distribution system and rural housing where there has been no devolution at all. There is an anomaly of the Deputy Commissioner continuing to be in charge of Members of Parliament Local Area Development Scheme, which is itself an aberration in the context of Panchayati raj and relief of natural calamities, even though the implementing

				<p>staff are all with the Panchayats. The area development bodies like the Hyderabad- Karnataka Development Board, Malnad Development Board and Maidan Development Board continue to function. Their function overlap with those of the PRIs.</p>
Kerala	April 24, 1992	<p>Kerala enacted the Kerala Panchayat act, 1994, which came into force on 23 April, 1994. The first elections to the new three-tier Panchayat Raj set up were held in September 1995 and the Panchayats came into being on 2 October 1995.</p>	<p>There were 126 items for village Panchayats, twenty-nine items for block level Panchayats and eighty items for district Panchayats.</p>	<p>The degree and extent of the decentralization process in Kerala has been gigantic. It has given powers and functions along with institutions and staff and resources have been transferred to the local bodies. The government did not wait for the capacity of the local government to be built up as a pre-condition for transfer of powers and responsibilities. In sectors, which looked into the minimum needs of the locals, like providing minimum needs</p>

				<p>like shelter, drinking water, sanitation facilities and connectivity, the local government has performed beyond expectations. In other sectors like agriculture, animal husbandry, health and education, they have been good model to be adopted by other states. Yet there are some grey areas, the Eleventh Schedule of the Constitution actually does not carve out the functional domain of the Panchayats. It only lists out the developmental areas where such local governments could have role in planning for economic development and social justice and in the implementation of such plans.</p>
				<p>Of the 29 subjects mentioned in the XI schedule only two subjects have been allocated. One is the land development and Market and fairs.</p>
				<p>Planning, approval of budget, selection of beneficiaries of all schemes, auditing the Panchayats annual statement and its implementation.</p>
				<p>After a lot of wavering, Tamil Nadu under the ADMK rule fell in line with the Constitution (Seventy-</p>
				<p>April 24, 1992</p>
				<p>Tamil Nadu</p>

		<p>After a lot of wavering, Tamil Nadu under the ADMK rule fell in line with the Constitution (Seventy-Third Amendment) Act and passed the Tamil Nadu Panchayat Act in 1994. It came into force on 22 April, 1994.</p>		<p>Development officials working in the Panchayat bodies are declared as government officials and they do not come under the purview of local bodies. As a result, the local bodies cannot supervise their activities. Compared to the earlier act 1958 with the new act, one finds that there were adequate powers in the earlier law for the local bodies to supervise regulate and control the officials working with them. The district collector's arbitrary power to suspend and dissolve the gram Panchayats is against the spirit of decentralization. The Centre and State have introduced schemes like, Anna Marumalarchi Thittam scheme (Anna renaissance scheme) and Namakku Name Scheme (we for ourselves), which tries to bypass the Panchayats powers and works against the local interests.</p>
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Madhya Pradesh	April 24, 1992	<p>The Madhya Pradesh Panchayat Raj Adhiniyam, 1993, was passed by the State Legislature on 30 December 1993 and came into effect on 25 January 1994 replacing the earlier Panchayat Act of 1990. Elections to the Gram Panchayats and Zilla parishads were held in May and June 1994.</p>	<p>Management of public markets/melas (fair), emergency relief and work relating to rural development, agriculture, welfare of weaker section, school management and the rural health centres.</p>	<p>The functions of the Gram Panchayat in this act are mainly municipal in nature. Though school management and the rural health centres were transferred to Panchayats with a new post of Chief Medical Officer (CMO) to look after the health programmes under the Zilla Panchayats. However, in actual practice the CMO remains a government official directly answerable to his departmental superiors but for certain functions, he moves the papers to the chief executive officer of the Zilla Panchayat. Similarly schools continue to be of government.</p>
West Bengal	April 24, 1992	<p>West Bengal enacted the West Bengal Panchayati Act in 1994.</p>		<p>West Bengal's Panchayati raj is a success story. The institutionalization of Panchayat democracy along with land reform are the two most important achievements of the Left Front government that has</p>

achievements of the Left Front government that has been in power in the state continuously for more than two decades. In the management of poverty alleviation programmes the states record had been better than that of other states as the state had been given the entire responsibility of implementation of all such programmes. The Panchayats of West Bengal are not mere paper organizations but have been given substantial responsibility in rural development works, particularly in the implementation of poverty alleviation programmes. As a result, these local bodies are today an independent part of the delivery system of the state government in the rural areas. One disturbing feature of West Bengal's Panchayats is their failure to raise local resources. No attempt is made to raise non-tax revenue, or to generate local contribution or to access institutional finance. With no resources of their own even to balance their revenue budget, effectiveness of these bodies depend totally upon the grants of the state government. The dream of Panchayats emerging as institutions of 'self-government' thus facilitating genuine decentralization of governance still remains a dream.

From the above table it is clear that most state governments have not shown much vision on enacting new Panchayati raj laws. The exceptions being West Bengal and Kerala where decentralization of power has been extensive and genuine. A part of the fault lies in **the system**, a part in the **immediate social environment** but **a large part is to be attributed to the controlling state government itself**. **Inadequacy of funds** available to local bodies and **creation of parallel structures** to take over the mandatory powers of the Panchayats has been a chronic problem before all local bodies. Powerful groups based on caste and economic status dominate the local governmental bodies. Though, the states have accepted the 73rd and 74th Amendments in letter rather than in spirit, in many State Acts, civil servants are indirectly given powers over the elected body thus making the devolution of powers and functions to the Panchayats go at a snail pace.

The bureaucracy and politicians still enjoys financial and economic power vis-à-vis the elected representatives at the panchayat level. To maintain such a position, the argument they put forward is that in most of the villages and districts, the feudal elements and land owning sections are still dominant and that their chances of misusing the political and economic power are higher. Further, the argument they put forward is that the voices of illiterate Schedule Castes, Schedule Tribes, women and other marginalized sections may not carry the same weight while deciding important matters even if they occupy important positions in the Panchayat Raj Institutions. These are the flimsy grounds, which bureaucrats use to wield power.

The above arguments only goes to prove that there has been reluctance on part of state-level politicians to recognize the importance of the local governance- their autonomy, their powers and their area of functioning-, which is again creating problems in devolving powers. Ministers, MLAs and senior political leaders are more worried that the power they enjoyed so far will wane if Panchayats and municipalities become really powerful. State-level leaders do not like the emergence of local level leadership, as it would pose challenge to them in due course.

This leads us to probe into the issues of federalism and look into the question of what makes the states behave in a different manner. There is no doubt that the federal structure of the constitution has miserably failed to distribute powers equitably to the states and the Panchayats. It only promotes over centralization of powers in the hands of Union Government, which in turn makes the states reluctant to devolve powers to the Panchayats. The Sarkaria Commission recommendations, which favors state autonomy at length needs to be thoroughly implemented and practiced. When States enjoy full autonomy, it will automatically lead to the devolution of power to the local government. The behavior of the states in devolution of power to the Panchayats will come without reluctance and inhibitions. In addition, measures should be taken to amend the constitution to accord status to the Eleventh Schedule and to treat it at par with the Central list, State list, and concurrent list.

This will help embolden the Panchayats rights, as they know best what is good for the development of their region. Decentralization should be practiced in true spirit. Apart from this the right to information should be followed by every state to maintain transparency and prevent any kind of exploitation.

There have been instances, which showed that inspite of limitations and arbitrary attitude of the States, panchayats played a crucial role in challenging the autocratic nature of the State and bureaucracy, and also challenging the liberalization process, taking shape in the form of multinationals collaborating with their Indian partners to start their Indian ventures. MNCs when initiate a project shows no concern for the life, culture, environment and long term effect of the industrial waste on the natural resources such as water and soil.

A recent case in the point is the **Thapar-Dupont Company**, which did not get permission from the Panchayats from a Keri village Panchayat in Goa. The Company was not allowed to start work and was issued a show cause notice. Though the company went on an appeal against the Panchayats order but had to submit to the Panchayat, as the Keri village Panchayat stood firm by not allowing permission. If Panchayats have a power in deciding cases as was

done in Dupont case.

In another instance, the Government of Karnataka leased out lands in scheduled areas for mining operations to **non-tribals** without consulting them, thus contravening the fifth schedule of the Constitution. The Adivasis in Anantagiri mandal of vizag district in Andra Pradesh were victims of powerful economic lobbies- **the mining industry**. Small private mining companies were in occupation of tribal lands and were using tribals as laborers. The tribals in Borra Panchayat who have been living in these hills for centuries (the Borra caves which are world famous geological formations of stalactites and stalagmites date back to the pre-historic age) were denied title deeds to their own lands. On the other hand mining companies were given leases by the state since the 1960s on tribal and forestlands. The first company to enter the area was Birla Periclase, which is a company of Indian Rayon and Industries. The company was given a lease of 120 acres of land in a small interior village called Nimmalapadu, for exploiting calcite, one of the principal raw materials for their Sea Water Magnesia plant near Bhimli.

The tribals of Borra Panchayat with the help of an NGO, named Samata put up a fight directly against the state as it was found out that the leases were against the land transfer regulations of the scheduled area (the LTR Act 1 of 1970) and started questioning the legality of these leases. A strong peoples movement was build up and a legal battle was fought to question the states right to grant mining leases in the scheduled area to private companies as the leases amounted to transfer of tribal lands to non-tribals.

Public interest litigation was filed in the high court of Andhra Pradesh in 1993 on the grounds that the government was also a 'person' (non-tribal) and hence does not have the power to grant leases in a scheduled area to non-tribals. A stay order was granted and for the first time after independence, the tribals of Borra Panchayat cultivated their own lands. In 1995 the stay order was lifted and the case was dismissed by the High court. This prompted the Samata to take the issue of tribals to the Supreme Court. In July 1997, the historic judgment was made which declared that mining leases in the

Scheduled areas were against the land transfer regulations, and therefore, null and void. The Court recognized the 73rd Constitution Amendment Act and the Andhra Pradesh Panchayat Raj (Extension to Scheduled Areas) Act by stating that the Gram Sabhas shall be competent to safeguard and preserve community resources and thereby reiterated the need to give the right of self-governance to tribals. The court also recognized that the Government couldn't lease out lands in scheduled areas for mining operations to non-tribals as it is in contravention of the fifth schedule of the Constitution.

The legal victory was a great reassurance of democratic space to tribal and constitutional rights. Mining activities in the scheduled areas of A.P. immediately came to a halt and the companies were directed to close down their work. Tribals could take back their lands and practice agriculture and are living a life of dignity since the order.

Apart from the above instances there are other instances like the Balco case and the Enron issue, which again goes to prove that the Panchayats can assert their rights whenever their rights are taken away unconstitutionally. Monitoring of all such projects and the power to terminate them for non-fulfillment of obligations- should be handled directly by the communities concerned, perhaps in the form of prevailing self-government institutions like Panchayats. Because as bitter experience shows that asking administration's cut off from the people to enforce regulations ensures nothing but graft, inefficiency and resounding failure.

From experience it is also seen that some Panchayat are proactively expanding the space even within the available spectrum and have been effectively addressing multi-faceted issues including livelihood, employment generation, effective use of local resources and protecting the environmental resources. It is clearly established from the first term of Panchayat Raj (Between 1993- 2001) that Panchayati have done extensive work on addressing infrastructure issues of villages such as laying metal roads, rural electrification, street lights, water supply and providing cremation grounds.

The need of the hour is bottom line planning should be done according to local specificities, effective and meaningful participation in the decision making process, control over resources for equitable and sustainable use of such resources, implementation of development programmes and monitoring the extent of implementation, by themselves. In nutshell- all powers and functions to plan, implement and monitor including -executive, legislature and judicial spheres which is the intent of the true local self-governance. Considering the constitutional status, clear demarcation of subjects in the XI Schedule, participatory democratic structure to the gram sabha, Panchayats have scope to expand their domain of governance and effectively assert their rights in deciding their own development.

This all goes to prove beyond doubt that whenever projects, like tourism comes up in a local area, Panchayats have the true potential to exercise their constitutional powers assertively to question the paradigm of development.

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Glossary:

1. **Local Self- Government.** It implies the management of local affairs by the local people. It deals with problems of the local community like health, sanitation, water supply, primary education, construction and maintenance of local tracks and roads, street lighting, drainage, disposal of sewage, upkeep of parks and garden, establishment of libraries and reading rooms and other such activities.
2. **Panchayat.** The word Panchayat is derived from the Sanskrit word *panch*. As the word suggests it means five and hence has traditionally been used to connote an assembly of five elderly and respectable persons of the village. The word is now used to refer to rural local government.
3. **Gram(a):** Village.
4. **Gram Sabha:** It is the bottom level body in the Panchayati raj system. It is perceived as the primary body of Panchayat raj system designed to facilitate direct participation of the people in local activities. It is a statutory body and consists of assembly of all adults residents in the village.
5. **Panchayat Samiti:** It is the intermediate tier in the Panchayati raj system of rural local government in India.

6. **Zilla Parishad:** It constitutes the apex in the Panchayati raj system of rural local government in India.
7. **District:** means a district in a State or a portion of territory, region or locality, notified under the statutes of the state.
8. **Intermediate level:** It means a level between the village and district levels specified by the Governor of a State by public notification.
9. **Panchayat area:** means the territorial area of a Panchayat.
10. **Population:** It means the population as ascertained at the last preceding census of which the relevant figures have been published.
11. **Metropolitan area:** It means an area having a population of ten lakhs or more comprised in one or more districts and consisting of two or more municipalities or panchayats or other contiguous areas, specified by the governor by public notification to be a metropolitan area.
12. **Municipal area:** It means the territorial area of a municipality as notified by the governor.
13. **Nagar Panchaya:** It is mainly a transitional area, an area that is transformed from a rural to an urban area. Such an area is basically rural in character, which over a period of time develop urban characteristics. Such an urban local body would have to perform both rural and urban functions. Nagar Panchayats even now exist in some states.
14. **Municipal Councils:** It is constituted in a smaller urban area.
15. **Municipal corporations:** It is constituted for larger urban areas. It is the topmost of urban local government. It is set up under a special statute by the state legislature.
16. **Constitution:** It is a body of fundamental principles according to which a state is governed.

- 17. Directive Principles of State Policy:** It is enshrined in the fourth part of the Constitution. They are unique and novel in so far as they describe the ambitions and aspirations of the framers of the Constitution. It is not a legal part of the Constitution and is not enforceable by any court of the country.
- 18. Eleventh Schedule:** It lists out the powers and rights of the Panchayats as may be necessary to function as a unit of self-government.
- 19. Twelfth Schedule:** It lists out the powers and rights of the Municipalities as may be necessary to function as a unit of self-government.
- 20. Fifth Schedule:** The major features of the Fifth Schedule are Tribes Advisory Council, Governor's power to adapt laws passed by parliament and State Legislatures and making regulations for the Scheduled Areas having the force of law, and extension of the executive power of the Union Government to the giving of directions to a State for administration of Scheduled Areas. It provides for Scheduled Area of a State, an enabling frame for legislation in the form of regulations, tribal consultative machinery in the form of Tribes Advisory Council and is paternalistic in its design. It contains the potential to become a potent instrument for prevention of exploitation and discrimination as well as for governance of Scheduled Areas in tribal interests. The fifth Schedule includes eight states namely, Andhra Pradesh, Bihar, Gujarat, Himachal Pradesh, Madhya Pradesh, Maharashtra, Orissa and Rajasthan.
- 21. Sixth Schedule:** It pertains to the Tribals in the North Eastern States. It deals with constitution of autonomous district councils and autonomous regions specifying for them legislative, judicial, executive, developmental and financial powers and functions. It spells out in different spheres the concept of self-management for autonomous councils and regional councils at the districts and regional level respectively. The tribal areas under the sixth Schedule include Meghalaya, Mizoram, Nagaland and Tripura in the North Eastern region.

